

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

MAY 11 2006

Missouri Public  
Service Commission

In The Matter of the Application of Aquila, )  
Inc. for Permission and Approval and a )  
Certificate of Public Convenience and )  
Necessity Authorizing it to Acquire, )  
Construct, Install, Own, Operate, )  
Maintain, and otherwise Control and )  
Manage Electrical Production and )  
Related Facilities in Unincorporated )  
Areas of Cass County, Missouri Near the )  
Town of Peculiar. )

Case No. EA-2006-0309

**AFFIDAVIT OF ROBERT D. STULZ**  
**CERTIFIED COURT REPORTER**

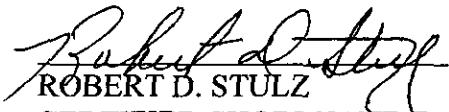
STATE OF MISSOURI )  
 ) ss  
COUNTY OF JACKSON )

Exhibit No. 32  
Case No(s) EA-2006-0309  
Date 4-26-06 Rptr KF

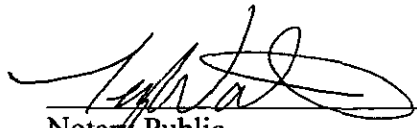
I, Robert D. Stulz, being first duly sworn do hereby depose and state:

1. My name is Robert D. Stulz. I am a certified Shorthand Reporter and Notary Public in the State of Missouri.

2. I was present for the official taking of proceedings before the Cass County Planning Board at public hearing held on Tuesday, July 13, 2004 respecting Special Use Permit Application No. 2589 where I then and there took down in shorthand the proceedings held thereat. Attached to my affidavit is a true and correct transcript of such notes and records made by me at said time and place together with my certificate.

  
ROBERT D. STULZ  
CERTIFIED SHORTHAND REPORTER

Subscribed and sworn to before me, a Notary Public, this 13 day of April, 2006.

  
Notary Public

My Commission expires: Aug 25, 2006

**TERRY WATSON**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires: Aug. 25, 2006

PROCEEDINGS BEFORE THE CASS COUNTY PLANNING BOARD  
AT PUBLIC HEARING HELD ON TUESDAY, JULY 13, 2004  
SPECIAL USE PERMIT APPLICATION NO. 2589

The above entitled cause came on regularly for hearing on Tuesday, July 13th, 2004 at the Cass County Courthouse, 109 E. Wall, Harrisonville, Missouri before MR. ROBERT HARDIN, Chairman of the Planning Board, commencing at the hour of 7:00 p.m. and the following proceedings were had and entered of record.

APPEARANCES

For the Applicant Aquila: MR. SPENCER THOMSON  
Blackwell, Sanders, Peper,  
Martin, L.L.P.  
Two Pershing Square  
Suite 1000  
2300 Main Street  
Kansas City, Missouri 64108

For Cass County:  
Missouri MS. DEBBIE MOORE &  
LYNN STOPPY  
Assistant Prosecuting  
Attorneys  
Harrisonville, Missouri 64701

For CCROPP: MR. MARK EPSTEIN  
Roe & Epstein  
920 Main Street  
Kansas City, Missouri 64105

Planning Board Members: ROBERT HARDIN, CHAIRMAN  
ORRIS HOFF  
BILL SHELTON  
LYNN STARK  
DEBRA BURTON  
DAVID CLICKNER

County Commissioners: JIM MEARA  
 Cass County Planning: DARRELL WILSON  
 Director

Administrative Assistant: KAREN FERGUSON  
 Cass County Zoning Dept.

Advisory Planner to the: SCOTT MICHIE  
 Planning Commission

Cass County Codes Dept: MICHELE BURNWORTH  
 Aquila Inc.: Glenn Keefe - Operating Vice  
 President - Missouri  
 Electric  
 Chris Rogers - Segal Inc.  
 Vice President Project  
 Manager  
 John Stower - Burns &  
 McDonnell, Project Manager  
 Scott A. Michie, AICP -  
 Bucher, Willis & Ratliff

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1 MR. WILSON: My name is  
2 Darrell Wilson, I'm the Zoning  
3 Director. We're going to try and  
4 get this show on the road here. I  
5 think what my Chairman is planning to  
6 do is give the applicants an hour to  
7 speak, is that correct, Bob?

8 THE CHAIRMAN: That would be  
9 correct.

10 MR. WILSON: And opposition  
11 will have an hour, and then the  
12 applicants will have 15 minutes for  
13 rebuttal and the rest of that time  
14 is going to be reserved for The  
15 Zoning Board and staff.

16 When you come up to speak, I  
17 have some forms I need filled out.  
18 If you intend to speak I need that  
19 form filled out, turn it in to Dick  
20 -- or to Karen so she can get your  
21 name correct in the minutes.

22 At the beginning of this  
23 session the Court Reporter is going  
24 to swear in any witnesses. If you  
25 intend to come up and speak, you

1 need to stand up and swear in, okay.  
2 When you come up to speak, please  
3 address the group, don't be talking  
4 back and forth to the audience or to  
5 the applicants, address The Board.

6 The Board is a recommending  
7 body, they will recommend this matter  
8 to The Board of Zoning Adjustment.  
9 The Board of Zoning Adjustment, upon  
10 receipt of that letter, will set a  
11 date, everybody will be re-notified  
12 and The Board of Zoning Adjustment  
13 will have their hearing on the matter.

14 So without any further ado I  
15 will turn it over to -- well, first I  
16 guess we'll do the swearing. Do you  
17 want to go ahead and swear them in  
18 Mr. Stulz (indicating to The Court  
19 Reporter). Anybody who intends to  
20 speak for or against needs to stand  
21 up and be sworn in.

22 (Whereupon, all witness were  
23 duly sworn by The Court Reporter.)

24 MR. WILSON: Without any  
25 further ado I'll turn it over to Mr.

1 Hardin.

2 THE CHAIRMAN: Thank you,  
3 Darrell. The first order of business  
4 this evening will be for The Board.  
5 We have two sets of minutes that I'd  
6 like for you all to review and then  
7 I'll accept motions on these minutes.

8 MR. SHELTON: I make a  
9 motion we accept the minutes as  
10 presented.

11 MR. HUFF: I second it.

12 THE CHAIRMAN: Second. All  
13 in favor.

14 (All members of The Board  
15 responded aye.)

16 THE CHAIRMAN: Opposed.

17 (No response.)

18 THE CHAIRMAN: The minutes  
19 pass. Thank you.

20 I appreciate everyone being  
21 here this evening. These meetings  
22 are very important to the Planning  
23 Board and our County's future. We  
24 look forward to everyone  
25 participating this evening. However,

1 if what you have to say has already  
2 been brought forth, your redundancies  
3 are not appreciated. If it does  
4 appear that we are rehashing and  
5 hashing again positions and opinions,  
6 I'll ask you to step down and we'll  
7 let the next person come forward.

8 We want to run this meeting  
9 efficiently. We want all the facts  
10 to be brought forth on both sides of  
11 the issue, and we would appreciate  
12 all devices that we just heard be  
13 shut off and turned off and turned  
14 down.

15 We've got a significant  
16 application this evening and we  
17 expect the appropriate presentations  
18 from both sides and a very strong  
19 sense of propriety this evening.

20 With that we'll go forward to  
21 application number 2589 for Aquila,  
22 Inc. Darrell, do you have any  
23 comments regarding that application  
24 at this time?

25 MR. WILSON: Not really.



1           Aquila has applied for a Special Use  
2           Permit to operate a power plant that  
3           is within the purview of our zoning  
4           ordinance. We do it that way with a  
5           Special Use Permit on agricultural  
6           property. It is up to you to make  
7           that decision whether it's proper or  
8           not.

9                         THE CHAIRMAN: Thank you.  
10          Again, if you -- when we do get to  
11          the section that individuals want to  
12          put forth their positions this  
13          evening, we do need to know who you  
14          are. We have the forms that need to  
15          be completed. We would ask that you  
16          speak at the microphone and we would  
17          ask that any comments, et cetera,  
18          only be done at the microphone and  
19          at that time you'll be acknowledged.  
20          We do not want any banter or  
21          commentary, et cetera, from the  
22          audience this evening.

23                        To give you a little bit of a  
24          timeline, Darrell addressed it.  
25          We'll go for an hour, the pros have

1 an hour, the cons have an hour, the  
2 pros have 15 minutes to rebut and  
3 then the rest of the time period  
4 this evening will be spent by The  
5 Board discussing both sides'  
6 positions.

7 (Whereupon, an inaudible  
8 comment was made by an unidentified  
9 individual.)

10 UNIDENTIFIED MAN: That's a  
11 con.

12 THE CHAIRMAN: I appreciate  
13 that, but we're not in the dark up  
14 here.

15 The -- there will be a break  
16 at the end of the cons' position,  
17 whether that will be two hours from  
18 now or an hour and something after  
19 the pros have also had their  
20 position. So we will have a  
21 ten-minute break in order to do  
22 whatever you need to do.

23 So with that I will turn the  
24 microphone over to Aquila.

25 MR. WUCHER: Excuse me.

1                   Could I ask a question? We all need  
2                   to know what your name is. None of  
3                   us -- I mean, I'm a new resident,  
4                   but I need to know what your name is.

5                   THE CHAIRMAN: Okay.

6                   MR. WUCHER: Please -- I  
7                   mean, we didn't hear what you said.  
8                   What is your name?

9                   THE CHAIRMAN: Okay. Have a  
10                  seat and we'll address that for you.  
11                  You say you did not hear me?

12                 MR. WUCHER: No, I didn't.

13                 THE CHAIRMAN: You didn't  
14                 hear anything I said?

15                 MR. WUCHER: No, I --

16                 THE CHAIRMAN: My name?

17                 MR. WUCHER: I didn't hear  
18                 your name --

19                 THE CHAIRMAN: Okay.

20                 MR. WUCHER: -- and what your  
21                 responsibilities are.

22                 THE CHAIRMAN: Very good.  
23                 My name is Bob Hardin -- Bob Hardin  
24                 and I am with the Allen Bank and  
25                 Trust Company, I run the location in

1 Belton, Missouri for Allen Bank and  
2 Trust.

3 MR. WUCHER: And what is your  
4 position within Cass County and this  
5 relationship here?

6 THE CHAIRMAN: I am Chairman  
7 of the Planning Board and a citizen  
8 of Cass County and own and run a  
9 business in Cass County.

10 THE COURT REPORTER: Can I  
11 get your name, sir?

12 MR. WUCHER: Yes. My name  
13 is Larry Wucher, I'm at 23207 South  
14 Shaffer Road in Shaffer Estates in  
15 Cass County.

16 THE COURT REPORTER: And  
17 the last name is spelled?

18 MR WUCHER: W-U-C-H-E-R.

19 THE COURT REPORTER: Thank  
20 you, sir.

21 MR. WUCHER: 64701 is the  
22 zip code.

23 THE CHAIRMAN: I appreciate  
24 his question. I don't ever get to  
25 tell very many people like this who I

1 am. So thank you.

2 From now on we'll do it at  
3 the microphone, though.

4 MR. WUCHER: You're going to  
5 get a few more like that, too. Okay.

6 MR. THOMSON: Mr. Chairman,  
7 members of The Board, members of the  
8 public. My name is Spencer Thomson,  
9 I'm an attorney with the Blackwell,  
10 Sanders, Peper, Martin law firm, the  
11 address is 2300 Main Street, Suite  
12 1000, Kansas City, Missouri 64108.

13 I'm here tonight  
14 representing the applicant Aquila in  
15 a Special Use Permit application, as  
16 you all know. I Appreciate the  
17 opportunity to be here, Mr.  
18 Chairman, members of The Board,  
19 members of the public.

20 I'm going to act, for lack  
21 of a better word, as kind of the MC  
22 for our side, and I'm hopeful that  
23 we can actually make our presentation  
24 in a succinct and straightforward  
25 manner so we don't use the full

1 hour. I believe there may be some  
2 others from public who intend to  
3 speak in support of this project and  
4 I want to be sure to leave them as  
5 much time as possible as well.

6 As you all know, we're here  
7 this evening to hear the application  
8 for a Special Use Permit filed by  
9 the utility, Aquila, and I'd like to  
10 introduce for you off the bat here  
11 the folks who are going to be mainly  
12 presenting from our side so the  
13 folks can put a face and a name  
14 together.

15 Immediately here at the  
16 table is Mr. Glenn Keefe, he is the  
17 Operating Vice President of Aquila  
18 Missouri Electric. To his immediate  
19 left is Mr. Chris Rogers, he's a  
20 consultant with Sega Engineers, and  
21 to his left is John Stower, an  
22 engineer with Burns & McDonnell  
23 Engineering. These three gentlemen  
24 will be presenting the main substance  
25 of the applicant's presentation this

1 evening. I'm just -- I'm a sideshow.

2 We're here on a Special Use  
3 Application as opposed to an  
4 industrial I-1 rezoning, which is  
5 what our application originally began  
6 as. We were faced with a decision  
7 to make at the outset of whether we  
8 seek an industrial rezone to this  
9 site in order to accommodate this  
10 facility or if we seek a Special Use  
11 Permit leaving the land zoned  
12 agricultural.

13 We commenced the process  
14 with -- actually with the intent to  
15 file an Application For Industrial  
16 Rezoning, but based upon the  
17 recommendations of your County Zoning  
18 Director, Darrell Wilson, and also on  
19 the recommendations of Gary Mallory,  
20 we concluded, which made a lot of  
21 sense to us, that it was probably  
22 more appropriate to go the Special  
23 Use Permit approach. For a number  
24 of reasons we felt that made sense,  
25 not the least of which is that it is

1 a less permanent change in use.

2 A Special Use Permit, for  
3 those of you who may not know, is  
4 limited in use to the duration of  
5 that use, and should the utility, the  
6 applicant here, cease to use it for  
7 that use for a period of 12 months,  
8 they lose the ability to use it for  
9 that use.

10 In addition, they have to  
11 submit and can commence construction  
12 within 12 months or they would lose  
13 the right to the Special Use Permit.

14 That differs greatly from an  
15 actual rezoning, which would  
16 permanently rezone the property for  
17 industrial use, which would allow  
18 future users, future owners that we  
19 might sell to should we have a need  
20 to, to use the property in an  
21 industrial manner.

22 And so for those reasons and  
23 the fact that we know that the City  
24 of Harrisonville has come out and  
25 stated their opposition to a rezoning



1 of this site, we decided Special Use  
2 Permit was a better approach and  
3 that's why we're here this evening  
4 under that approach.

5 As this Board knows, The  
6 Board's obligations and  
7 responsibilities are to make a  
8 recommendation to The Board of Zoning  
9 Adjustment on this application. The  
10 recommendation goes to six points set  
11 forth in your zoning ordinance, six  
12 criteria, if you will, that you have  
13 to consider.

14 And I know that this is  
15 certainly not news to any of you,  
16 but it may be to those in the  
17 audience or some of those in the  
18 audience.

19 And you hired a consultant,  
20 as would be expected, Bucher, Willis  
21 & Ratliff Corporation, to make  
22 recommendations --review the  
23 application and make recommendations  
24 to this Board and to the County as a  
25 whole, and I have a copy of that

1 report with me to refer to as I  
2 speak here briefly.

3 The six criteria set forth  
4 in the zoning ordinance we believe  
5 very strongly have been met in this  
6 instance. The first of those  
7 criteria is the location and size of  
8 the proposed use in relation to the  
9 site, to adjacent sites and the use  
10 of the property and the nature and  
11 intensity of operations on the  
12 property.

13 We have been very careful to  
14 place this site in a manner that  
15 would allow for the least intrusion  
16 upon any high density residential,  
17 for the least intrusion upon the low  
18 density residential that actually  
19 surrounds -- or is near the site, I  
20 should say, it doesn't surround it.

21 And we've done a very careful  
22 design that allows for much buffering,  
23 setbacks, et cetera, which some of  
24 the other speakers who are here  
25 today can give you a better

1 understanding of how it sits on the  
2 site or will sit and how those issues  
3 have been addressed.

4 The Bucher, Willis report on  
5 this particular finding concluded  
6 that we had, in fact, used deep  
7 setbacks, fencing and landscaping in  
8 a manner to lessen those burdens.  
9 So we feel very strongly we've met  
10 item 1.

11 Item 2 is the accessibility  
12 to emergency services, fire, police  
13 and so forth, and also deals with  
14 traffic flow. This one was an easy  
15 one for us to meet, all of those  
16 services are readily available to  
17 this site.

18 This site and this use of  
19 this site is a very low traffic, low  
20 intensity use from the perspective of  
21 employees. At peak time two  
22 employees maximum, and oftentimes  
23 this facility won't actually be  
24 running, which means there'll be no  
25 employees on the site and no traffic

1 created by the actual -- actual use.

2 MR. WUCHER: Excuse me.

3 Could I ask a question?

4 THE CHAIRMAN: No, sir, you  
5 may not.

6 MR. WUCHER: May not?

7 THE CHAIRMAN: No, sir, you  
8 may not.

9 MR. THOMSON: Item 3 of the  
10 ordinance that you all make a  
11 recommendation or finding on relates  
12 to the availability of utility  
13 services, water, gas, electricity.  
14 Here again, a very simple one in  
15 this instance because this site was  
16 chosen, in large part, because of  
17 the availability of all the  
18 utilities, which will be one of the  
19 slides you'll see from our  
20 presentation. Each of the necessary  
21 utilities is within close proximity,  
22 making this an ideal site for this  
23 type use.

24 Item 4 is the location,  
25 nature of height of building walls,

1 fences. That's very similar, I  
2 think, to number 1, and as Bucher,  
3 Willis has pointed out in their  
4 report, we've made a number of  
5 accommodations to deal with those  
6 things and they actually give that  
7 pretty short -- short shrift, if you  
8 will, they are stating that it is  
9 buffered and that the restrictions  
10 are essentially met.

11 With the possible exception  
12 of a 75 foot lightning -- or 75 foot  
13 lightning towers, I guess we'd call  
14 them lightning rods that we need for  
15 safety reasons and we're not quite  
16 certain we're going to need exactly  
17 that, but we think at this stage  
18 that there's a good chance we will.

19 We're aware of the fact that  
20 a 75 foot lightning rod in this  
21 zoning district is -- is noncompliant  
22 and for that reason we have a  
23 request here that we'd like to  
24 submit to The Board, to the County,  
25 specifically requesting a variance

1 from that particular requirement  
2 under the agricultural zoning.

3 Is that something I should  
4 give to your clerk here or --

5 THE CHAIRMAN: Give it to  
6 Darrell.

7 MR. THOMSON: I've gone way  
8 over my four minutes, haven't I?

9 This is essentially a  
10 request for a variance should it  
11 become necessary on the lightning  
12 tower.

13 Item number 5 is the  
14 adequacy of required yard and open  
15 space requirements. Again a bit  
16 redundant. We feel very strongly  
17 that's been met, as does the Bucher,  
18 Wills report, because of the deep  
19 setbacks.

20 And then item 6 is general  
21 compatibility with adjacent  
22 properties and other properties in  
23 the district, general health, safety  
24 and welfare of the community.  
25 Again, we feel strongly we've met

1           that. We've done everything we can  
2           in this instance to lessen the impact  
3           of the facility.

4                     You'll see from the  
5           presentations of those who follow me  
6           that this is not a facility in the  
7           true sense of a large coal-fired  
8           plant. This is a natural gas powered  
9           electric utility plant, it's much  
10          smaller than the plants many of you  
11          may be accustomed to have seen or  
12          have seen in other locations, and  
13          you'll see that from the  
14          presentations that we give here.

15                    So without further ado, I  
16          would like to introduce to you Mr.  
17          Glenn Keefe, he is Operating Vice  
18          President, again, of Aquila Missouri  
19          Electric and he will present to you  
20          why this particular location and why  
21          its needed.

22                    MR. KEEFE: Good evening.  
23          My name is Glenn Keefe, I am Aquila's  
24          Operating Vice President of Missouri  
25          Electric. My address is 10700 East

1 350 Highway, Kansas City, Missouri.

2 We recognize that there's a  
3 lot of people here tonight that do  
4 not want this power plant here. We  
5 also recognize that no matter where  
6 we would put a power plant there are  
7 a lot of people that would not want  
8 the power plant in their back yard.

9 We've been having a lot of  
10 problems here in the last three  
11 years with siting substations,  
12 transmission lines and it's something  
13 that concerns me. We've had a lot  
14 of opposition to some substations in  
15 the Jackson County area. We've had  
16 some opposition to transmission  
17 lines. It's getting more and more  
18 difficult to get right-of-ways and  
19 more costly, and it's something that  
20 concerns me for the future -- our  
21 future ability to serve our customers.

22 As Operating Vice President,  
23 I am in charge of overseeing the  
24 operation of the generation, the  
25 transmission and the distribution of



1 electricity to our customers.

2 I'd like to start with just a  
3 little discussion on our service  
4 territory. This is Aquila Missouri  
5 Electric's service territory. You  
6 can see -- you can see that we  
7 divide our service territory into  
8 four areas. The north area, which  
9 is up around like St. Joe Light &  
10 Power is right here, St. Joe. The  
11 east area, the west area and the  
12 south area.

13 Our fastest growing areas  
14 are our east area and our west area.  
15 The west area, as you can see, goes  
16 down to the Cass County area. We  
17 are adding about 5,000 customers a  
18 year.

19 A year ago, in July of 2003,  
20 we actually had an all-time peak. A  
21 peak is when the air conditioners are  
22 running maximum, it's really hot, and  
23 our generation is way up. Last year  
24 in July of 2002 we had a seven and a  
25 half percent increase in electrical

1 load. That was 1,862 megawatts. So  
2 that -- that's a lot of power. This  
3 particular power plant is going to be  
4 315 megawatts.

5 Another concern I have is  
6 that on June the 1st, 2005, I will  
7 lose a 500 megawatt purchase power  
8 contract. We have our own  
9 generation, we also go out and buy  
10 purchase power contracts So on June  
11 1st, 2005 that 500 megawatt purchase  
12 power contract goes away. Camp  
13 Branch is the most economical  
14 alternative we have to partially  
15 replace that 500 megawatts.

16 We are also charged by the  
17 Missouri Public Service Commission to  
18 build plants at the lowest cost. So  
19 in our site selection process we  
20 look around and see what plants has  
21 the infrastructure that we need and  
22 that is the site that we pick that is  
23 the lowest cost.

24 Getting back to our service  
25 territory, this -- we have a combined

1 cycle -- I mean, we have a peaking  
2 plant at Kansas City International,  
3 we have a coal-fired plant at Lake  
4 Road, we have a large 500 megawatt  
5 coal-fired plant at Sibley, Missouri.  
6 And we have peakers at Greenwood,  
7 Ralph Green and our proposed Camp  
8 Branch location.

9 We have about 300,000  
10 customers and we're expecting our  
11 peak load to be fairly high. This  
12 last two days have shown a real --  
13 real high increase in load.

14 This is an aerial view of  
15 the Camp Branch location. You can  
16 -- this is the 40 acres that we have  
17 outlined for the proposed site. The  
18 site will be set back and the first  
19 engine will be somewhere right around  
20 here. Shaffer's Estates is right up  
21 here. 235th Street is right here.

22 This is an excellent  
23 location for our power plant because  
24 of these reasons. The blue lines  
25 indicate that we have six high

1 volume gas lines, something you don't  
2 see very many places. Combined with  
3 proper water, combined with this --  
4 this is a dual 161 kilovolt  
5 transmission line owned by Kansas  
6 City Power & Light. It goes from --  
7 it starts down in Montrose and goes  
8 up to South City.

9 This red line right here is  
10 our 161 kv transmission line, and the  
11 line you see over here is our 69,000  
12 volt transmission line. We also --  
13 there are also liquid lines here.  
14 The infrastructure is just very good  
15 for -- for a power plant.

16 And like I said before, we're  
17 charged by the Public Service  
18 Commission to build a plant at the  
19 lowest cost possible, and we have to  
20 select areas where we have gas, we  
21 have transmission and we all of the  
22 infrastructure there because it will  
23 decrease the cost of electrical power  
24 for our customers and the Public  
25 Service Commission watches that very

1 close, believe me.

2 And with that I think I'll  
3 turn it over to Chris.

4 MR. ROGERS: Good evening.  
5 My name is Chris Rogers. I'm with  
6 the consulting engineering firm of  
7 Sega, Incorporated, 16041 Foster  
8 Street, Stillwell, Kansas. I serve  
9 as Vice President to the corporation  
10 and I'm the project manager  
11 supervising the design team for this  
12 project and we're doing the detail  
13 design on behalf of Aquila.

14 And I've been asked to speak  
15 to why -- in some more particulars  
16 why this site, which are the features  
17 here. And Glenn did a good job of  
18 explaining to you about a number of  
19 the things that are already in  
20 place, but I want to put it in a  
21 more global structure, if you will.

22 When we look for sites for  
23 projects like this for a peaking  
24 station, primarily for summer  
25 operation, an unmanned, we're not

1 looking for a huge tract of land,  
2 we're looking for an appropriate size  
3 tract of land. It needs to be  
4 located within Aquila's certificated  
5 service area.

6 It's being built to serve  
7 increasing, as Glenn pointed out,  
8 native loads, and it's best located  
9 near the load centers, where those  
10 loads take place, not the far away  
11 with a lot of transmission losses.

12 We looked for acquirable  
13 sites, that is, preferably green  
14 field sites that -- that -- and we  
15 avoid sites with existing structures  
16 that require demolition or might have  
17 some contamination on them or are  
18 otherwise costly or difficult to  
19 rehabilitate, and we specifically  
20 avoid high density residential or  
21 commercial areas.

22 We look for permitable  
23 sites, and by that term I mean we  
24 don't look to locate next to a  
25 school or a hospital or highly

1 industrialized areas with sensitive  
2 emission limits. We look for  
3 appropriate land uses such as this,  
4 agricultural or even industrial  
5 zoning.

6 Now, within that framework,  
7 these are the specific things that  
8 we looked at and why we picked this  
9 site. Already the infrastructure  
10 we've talked about, but in specifics,  
11 the proximity to these gas lines is  
12 essential. Glenn said you don't see  
13 it very often, you don't hardly ever  
14 see six high pressure, high volume  
15 interstate gas lines together owned  
16 by two companies that compete. That  
17 is Southern Star up here and  
18 Panhandle Eastern.

19 Located along this corridor  
20 is already an Aquila gas pipeline to  
21 another plant and a 161 kv line. So  
22 you've got your electrical  
23 connections here on their own. In  
24 the future or as necessary they  
25 could intertwine with KCPL. So

1                   you've got the fuel and the  
2                   electricity together. That's a very  
3                   unique set of circumstances, doesn't  
4                   -- doesn't happen very often.

5                   We have water supplies.  
6                   There's a six inch retail line across  
7                   here, public water supply District  
8                   Number 9. There's also a 12 inch  
9                   along here. Right now we are  
10                  evaluating what would be the best  
11                  case, whether to tap into the six  
12                  inch line or the 12 line down here,  
13                  but in either case, the water  
14                  district has assured us that they can  
15                  provide service. So we have water  
16                  supply.

17                  Waste disposal from the  
18                  plant is minimal. We have wastewater  
19                  that is produced with evaporative  
20                  coolers, like cooling towers, that  
21                  run only, frankly, on days like  
22                  today, when you really need to get  
23                  all you can out of that engine. And  
24                  so there's -- there's some wastewater  
25                  that is spilled over from the



1 drainage of that.

2 We can evaporate that in the  
3 stacks. We can store it and haul  
4 it, or if -- if there was sanitary  
5 sewer service it could be put there.  
6 There isn't, so we have the first  
7 two options and that's covered.

8 We look for accessibility,  
9 and, frankly, that makes this site  
10 even more unique because on top of  
11 the gas lines and the electric lines  
12 we have Highway 7 at 235th Street  
13 and then for the really heavy pieces  
14 that need to be delivered by rail,  
15 they're -- they can be brought in  
16 here, there's a siding to the south,  
17 we could build a temporary siding  
18 there, there's a siding on it to the  
19 north, and so that combination of  
20 features is very unique.

21 And then there's the matter  
22 of the layout, and that is we needed  
23 approximately 40 acres of contiguous  
24 land without streams, without heavy  
25 rock formations, without any special

1 features that raise the cost of  
2 construction and cause problems. We  
3 needed a sloping elevation for  
4 drainage.

5 And by getting the full 40  
6 acres in one patch, that gives us  
7 the room to have the setbacks. It  
8 also gives us the room to do the cut  
9 and fill all on that property, keep  
10 all the construction parking on that  
11 property and keep everything all  
12 together and minimize the impact on  
13 the surrounding area.

14 Excuse me.

15 For a minute I'd like to  
16 speak to what Camp Branch is not,  
17 and for a lot of folks that's almost  
18 as important as the technical details  
19 we've been talking about already this  
20 evening.

21 Camp Branch is a simple  
22 cycle unit like this, and you see  
23 there we're talking structures of a  
24 height of about 50 feet. If you  
25 compare that to a coal unit, a coal

1 unit would have a top of stack as  
2 high as 600 feet, top of the boiler  
3 steel 300 feet, a turbine building  
4 that's about 100. A combined cycle  
5 unit -- this one only shows one  
6 stack but there's generally multiple  
7 stacks and you're talking about 150  
8 feet and a boiler that would be 100  
9 feet. These are very visible large  
10 units.

11 Camp Branch is comprised of  
12 simple cycle modular units that are  
13 near the ground, and as we indicated  
14 in the application, would be painted  
15 a neutral color that would blend  
16 with the site.

17 Now, that's one aerial view  
18 of the site and it's -- because of  
19 the software that's used shows a  
20 rather flat unimproved site. This is  
21 looking from the northeast in a high  
22 aerial view. This is your exhaust  
23 stacks, your air intakes, that's a  
24 water tank and a substation. This is  
25 a little service building.

1                   This is a rendering looking  
2 south from 235th, and this shows,  
3 frankly, some upgrades to what was  
4 originally presented in the permit in  
5 the form of additional trees and  
6 additional berming as screening. The  
7 idea is to make that as pleasant as  
8 possible and to not -- not cause an  
9 eyesore for the neighbors as Aquila  
10 very much desires to be a good  
11 neighbor.

12                   And these renderings take  
13 you all the way around the plant,  
14 starting with number 1 here, from  
15 the east side, 2 to the north that  
16 we've already looked at. Here's the  
17 view from Shaffer Estates, which is  
18 admittedly, taken from the  
19 cul-de-sac, we don't have access to  
20 anybody's house. So that's what  
21 public access can give us at this  
22 point. This is 4, from the other  
23 side of 7 Highway looking due east,  
24 and this is 5, from the south.

25                   And in every case you're

1            talking about a plant that's going  
2            to low on the horizon, not  
3            obtrusive. Here you've got it laid  
4            up here, and, frankly, this is an  
5            artist's rendition, we're benching  
6            that so it would be a little lower  
7            and little flatter so it will  
8            actually sit into the side of that  
9            hill a little bit. It'll drop  
10           between 12 to 20 feet, depending on  
11           where you are, and slope for proper  
12           drainage.

13                         John Stower is going to talk  
14           to you to talk about comparisons to  
15           other similar type units that are  
16           here in the Kansas City area.

17                         MR. STOWER: Good evening.  
18           My name is John Stower, I work for  
19           Burns & McDonnell Engineering. I'm  
20           the project manager. Burns &  
21           McDonnell is at 9400 Ward Parkway,  
22           Kansas City, Missouri 64114. Burns &  
23           McDonnell's participation in this  
24           project, we're providing consulting  
25           and permitting, helping Aquila with

1 the site.

2 Let's see if I can turn this  
3 the right way here.

4 Okay. The purpose of my  
5 presentations on the next slides, the  
6 first one, is to demonstrate that the  
7 proposed Camp Branch Energy Center is  
8 not unique with regards to the  
9 following three issues.

10 It is not unique in the fact  
11 that it has the necessary  
12 infrastructure located around the  
13 facility for a small peaking facility  
14 of this type. I think that Mr.  
15 Chris Rogers has provided an adequate  
16 demonstration based on the previous  
17 slide as to the infrastructure that's  
18 uniquely located around that facility.

19 Number two, that the local  
20 land use is not unique to the siting  
21 of such a facility.

22 And three, that the  
23 proximity of businesses and homes to  
24 such a facility is also not unique.

25 What this slide represents,

1 we went and located five other  
2 similar facilities that are in the  
3 regional area around the proposed  
4 facility. All these have to do with  
5 peaking facilities.

6 As you can see, we've got --  
7 there's three that are located up here  
8 Independence Center, they're owned by  
9 Independence Power & Light.

10 We've got the Greenwood  
11 Energy Center which I think a lot of  
12 people here are familiar with.

13 Here again is the Camp Branch  
14 Energy Center a little bit further  
15 south, that's why these are broken  
16 up. This is actually located south  
17 of this one.

18 And then we have Nevada  
19 Energy Center which is located even  
20 further south.

21 The Greenwood Energy Center,  
22 as you can see from this slide,  
23 we've used the same similar color  
24 scheme here that we did for the Camp  
25 Branch facility aerial. It indicates

1           that there is an existing natural gas  
2           pipeline that goes into this. As a  
3           matter of fact, that was actually  
4           built for the center, but this liquid  
5           petroleum pipeline was in existence  
6           at the time that the center was  
7           sited. There's also an existing  
8           electrical infrastructure that was at  
9           this site, too.

10                        Again, if you look at this  
11           facility -- unfortunately I don't  
12           have an earlier before and after  
13           slide -- this facility was built out  
14           in kind of a rural area, much  
15           similar to the one that Camp Branch  
16           is composed of.

17                        And the Timberlake Estates,  
18           which is right up here, that is --  
19           for the most part it's  
20           post-construction. So this area  
21           right here was built up next to this  
22           center in full knowledge that this  
23           here. So obviously it did not  
24           impede the development of the  
25           Timberlake Estates.



1                   The next site, which is --  
2                   it's down in the southern end of  
3                   Aquila's service territory, Nevada  
4                   Energy Center. Unfortunately, this  
5                   is an older site and we don't have  
6                   newer aerial photography for this  
7                   thing. Like it was said, it's '97,  
8                   but again, this is -- we've got some  
9                   housing developments that are  
10                  surrounding the site and again, it's  
11                  a rural area.

12                 This site in particular does  
13                 not actually have to use gas, it's a  
14                 diesel facility, but the location of  
15                 the site was, again, to support the  
16                 load in that region.

17                 Okay. The next site is an  
18                 Independence Power & Light energy  
19                 facility. We tried to indicate some  
20                 of the infrastructure that's around  
21                 this. You've got an existing  
22                 transmission line around this.  
23                 Unfortunately, we didn't have  
24                 information on the actual location of  
25                 the gas pipeline that provides fuel

1 to this facility. It would probably  
2 not be unreasonable to assume that  
3 the gas pipeline probably follows  
4 either Salisbury Road or it comes in  
5 next to Highway 291.

6 For your information, this  
7 neighborhood over here and this one  
8 up here, those weren't in existence  
9 at the time that the facility was  
10 built. This entire subdivision down  
11 here has been built since the time  
12 that that facility was constructed.

13 I know there's been some  
14 concerns about having different types  
15 of infrastructure up close to a  
16 facility like this, and as a matter  
17 of fact, there's actually a school --  
18 a daycare that's located that close  
19 to this facility. So again, this is  
20 another of those examples that the  
21 facility was located where it needed  
22 to be. It had the necessary  
23 infrastructure, it was located close  
24 to the load.

25 This is a case where it's

1 not a coal plant, it's ideal. I  
2 mean, they operate underneath the  
3 same premise, they have to operate  
4 underneath the same idea of trying  
5 to keep their generation close to  
6 the load.

7 Okay. The next facility  
8 we've got is -- again, it's another  
9 -- it's a Power & Light facility.  
10 We weren't picking on Independence  
11 Power & Light, it's just that they  
12 happened to have three peaking  
13 facilities that are in close -- in  
14 proximity to the proposed Camp Branch  
15 facility and they're -- so it's a  
16 similar type of facility.

17 The Independence Power &  
18 Light Jay Turbine peaking facility  
19 has -- again, we've got the  
20 necessary electrical infrastructure  
21 that's close to the facility. We've  
22 even got -- as we've indicated on  
23 the slide, we've got some - you  
24 know, there's a civic center that's  
25 been built that's close to it, the

1 new police station, city hall is  
2 close. This is a 55 unit apartment  
3 complex that is located very near to  
4 the unit.

5 As a matter of fact, the  
6 nearest house is only 422 feet away.  
7 We actually did a house count on this  
8 one, and there is greater than 150  
9 houses within a 2,000 foot radius of  
10 this site. The site that we had  
11 prior to this had a number of  
12 greater than 300 houses within 2,000  
13 feet of the site.

14 So as you can tell, there's  
15 a lot of businesses and homes that  
16 end up getting developed very closely  
17 to these sites. It doesn't impede  
18 that from happening, having this type  
19 of a facility in the neighborhood.

20 Okay. The next site that  
21 I'm going to point out. Once again,  
22 it's another Independence Power &  
23 Light facility. This one's located  
24 down near Lee's Summit Road and  
25 Keiger Road. Again, we've got

1 electric transmission going through  
2 this site. Again, I'm sorry, we  
3 don't -- we didn't have identified  
4 where the natural gas pipeline is  
5 that feeds this, but this is a gas  
6 facility.

7 We did want to point out  
8 that, obviously, once again, you  
9 know, we've got a new housing  
10 development that has been built since  
11 this site has been built. This is  
12 kind of a high end dollar development  
13 that's gone in right across from --  
14 right across Lee's Summit Road. The  
15 Drum Farm golf course has been -- at  
16 the time this picture was taken was  
17 under construction and I assume it's  
18 been built, it's there.

19 So with regards to this  
20 site, the nearest house is only 340  
21 away, and within 2,000 feet radius  
22 of this site, again, you've got over  
23 300 houses. So it's a pretty high  
24 density of houses. For the last  
25 three facilities looked at they're

1 close to this type of an energy  
2 center.

3 And I'm going to go back to  
4 the slide that Chris was talking  
5 about before. I think that this  
6 helps kind of put an exclamation  
7 point. I mean you see the  
8 infrastructure that was at the other  
9 sites.

10 And as you can tell, when  
11 they said that this was a unique  
12 situation where you've got not just  
13 one or two, you've got six high  
14 pressure, high volume, you know,  
15 pipelines located close to the  
16 proposed site. You've got several  
17 sources of electric transmission that  
18 the site can tap into. Adequate  
19 water supply.

20 It just kind of puts an  
21 exclamation point on the fact that,  
22 you know, that the site for the fact  
23 of infrastructure is adequately  
24 located and that, once again, it's  
25 -- you know, the local land use

1 would be appropriate for that and  
2 its approximately the distance to  
3 businesses and homes is such that the  
4 nearest house to the proposed Camp  
5 Branch center is 780 feet away, and  
6 Shaffer Estates is almost 1600 feet  
7 away. And then we did a house count  
8 of houses within 2,000 feet of this  
9 site and it was only 14.

10 So certainly the other sites  
11 that we have represented to you in  
12 the preceding slides, you know, their  
13 potential impact was certainly higher  
14 than what we're seeing here at this  
15 site, and their infrastructure wasn't  
16 even as good as this one.

17 So I think that takes care  
18 of what I've got for my  
19 presentation. I'm going to let Mr.  
20 Thomson, if you can provide your  
21 closing remarks. Thank you.

22 MR. THOMSON: Mr. Chairman,  
23 members of The Board, members of the  
24 public. Again, thank you for the  
25 opportunity to come and present this

1 evening.

2 I'd kind of like to  
3 summarize here briefly, and it looks  
4 like we've come in under our hour,  
5 which I'm proud of. I maybe have 15  
6 minutes for anybody else who may be  
7 in the audience that wants to come  
8 forward and speak in favor of the  
9 proposal. I recognize that that may  
10 be a small number compared to the  
11 others, but nonetheless.

12 You know, Aquila is a public  
13 utility company, obviously, and  
14 they're certificated by the Missouri  
15 Public Service Commission to provide  
16 a much needed public service.  
17 Everybody here uses electricity  
18 obviously, everybody needs it, it's  
19 an essential in our lives today and  
20 without it we wouldn't be where we  
21 are in the development of our  
22 communities.

23 There's a need for this  
24 service here in Cass County and in  
25 this area, and we are obligated to



1           serve our constituents, if you will,  
2           our customers, the public, where the  
3           need exists.

4                       It's not as if we took out  
5           a dart and a map and threw a dart at  
6           the map and said, here's where we  
7           want to put this facility. As you  
8           can see from the presentation here  
9           today, there's been a lot of thought  
10          and a lot of sophisticated, very  
11          detailed, very sensitive thought  
12          that's gone into the location of the  
13          -- the proposed location of this  
14          facility.

15                      It was not done randomly, it  
16          was not done because it's our desire  
17          to cause any inconvenience for  
18          anybody in this audience or in this  
19          city -- the nearby city or in the  
20          County or anything like that, it was  
21          done because there's a need that  
22          exists that we have to serve.

23                      You know, we wouldn't be here  
24          talking about it if you didn't live  
25          in a high growth county where

1           there's a demand for it, and the  
2           fact is, that demand's going nowhere  
3           but up. The County continues to  
4           grow and the demand for electricity  
5           will continue to grow.

6                       We came here this evening  
7           and we submitted ourselves to this  
8           process of seeking a Special Use  
9           Permit because we thought it was the  
10          right thing to do. We feel that we  
11          want to be a good citizen and we  
12          want to work hand-in-hand with the  
13          County and the residents of the  
14          County to come up with the best  
15          solution.

16                      As their attorney, I feel  
17          obligated to be the attorney, and  
18          occasionally as an attorney you have  
19          to say things that other people  
20          don't necessarily like, but we  
21          submitted ourselves to this zoning  
22          process, this Special use Application  
23          because we felt it was the right  
24          thing to do, not because we had to.

25                      It's our strong belief that

1 we have an obligation, frankly, to  
2 build the facility to serve the  
3 demand. As a certificated utility  
4 that obligation exists and, frankly,  
5 the law is just pretty clear on the  
6 right of a utility such as ours  
7 that's so certificated by the Public  
8 Service Commission to locate its  
9 facilities where it needs to.

10 Having said that, I think --  
11 we desired to submit to this process  
12 because we wanted input from you all,  
13 we wanted this to be an open and  
14 transparent process. And by doing  
15 that we've not waived any of our  
16 rights that we feel we have and know  
17 we have to -- otherwise under law to  
18 locate this plant and I wanted to  
19 make that clear.

20 In conclusion, I would like  
21 to refer the members of The Board  
22 back to the Bucher, Willis report  
23 that was prepared on behalf of the  
24 County as your consultant. We  
25 concur with that report in virtually

1 every respect. I think there's  
2 really only two areas of potential  
3 contention or dispute.

4 The first being the one we  
5 discussed at the outset, which is the  
6 distinction between an industrial  
7 rezone versus a Special Use Permit,  
8 which we explained, and we explained  
9 why we went through that process and  
10 went the SUP route.

11 And the other issue is we  
12 spoke about for which I have  
13 submitted the letter requesting the  
14 variance and the potential for the  
15 75 foot lightning tower that may be  
16 necessary or poles that may be  
17 necessary.

18 So having said that, we feel  
19 very strongly that we've made a  
20 strong case for this. We've met the  
21 ordinance, we've done everything we  
22 can to lessen the impact and we've  
23 done a very good job, in our  
24 opinion, of siting this particular  
25 utility -- this utility's facility.

1                   So without any further ado  
2                   I'll turn it over to the next group  
3                   of speakers, I guess, and of course,  
4                   we'll all be available to answer any  
5                   questions that The Board may have at  
6                   the appropriate time.

7                   THE CHAIRMAN: Thank you, Mr.  
8                   Thomson.

9                   MR. THOMSON: Thank you.

10                  THE CHAIRMAN: Okay. Is  
11                  there anyone else from The Board --  
12                  or from the group here this evening  
13                  that would like to come forward and  
14                  speak in favor of this application?

15                  (No response.)

16                  THE CHAIRMAN: Okay. We'll  
17                  move on to the next phase of this.  
18                  We'll move on to the next phase.  
19                  The microphone is open for those that  
20                  would like to visit with us against  
21                  this application. Please come  
22                  forward.

23                  MR. DOERHOFF: I'm Dan  
24                  Doerhoff, Superintendent of the East  
25                  Lynne School, a school district here

1 in Cass County, a school district  
2 just barely off the edge of the  
3 picture here.

4 Director Wilson, Chairman  
5 Hardin, Board members, Aquila  
6 representatives and the public. I'm  
7 not really sure if I'm on the  
8 opposite side of the fence, but  
9 there is a critical issue, an  
10 important part of this, that I felt  
11 compelled to provide information  
12 about coming from the educational  
13 standpoint.

14 Schools are funded by tax  
15 revenue, largely by property tax  
16 revenue, and a large responsibility  
17 for that property tax revenue rests  
18 on commercial enterprises and  
19 utilities. So we rely on that, we  
20 don't have any other funding source  
21 other than taxes, we have to have it.

22 In fact, Missouri Statute  
23 153.030 specifies that utility  
24 property will be taxed. Property  
25 owned by, controlled by, leased -- it

1 does go on and says even property  
2 controlled by utilities will be  
3 taxed. Schools rely on that. We  
4 must have that.

5                   You hear a lot about Chapter  
6 100 financing. Chapter 100 is an  
7 economic development tool. If you  
8 read Chapter 100 -- it's 32 some odd  
9 -- 33 pages in the statute books,  
10 but if you read Chapter 100, Chapter  
11 100 very plainly identifies the  
12 industries to which it applies. It  
13 has a section that identifies the  
14 applicable industries.

15                   Utilities aren't mentioned.  
16 Utilities are mentioned in 153.030  
17 and it says they will be taxed. It's  
18 important to schools, it's compelling  
19 to schools, that this property be  
20 taxed. That's why I'm here.

21                   If you take the value of the  
22 plant as stated by an Aquila  
23 representative last week at \$133  
24 million, you have to have a value  
25 somewhere, and that's an estimate and

1                   probably a reliable one, if you use  
2                   that estimate and follow through the  
3                   statutes on the taxation process,  
4                   utilities are taxed by the average  
5                   tax levy of all the schools in the  
6                   County. Take all their levies and  
7                   add them up.

8                   There are ten schools in Cass  
9                   County that are Cass County schools.  
10                  There are four additional schools  
11                  that are not Cass County schools,  
12                  but extend into Cass County. Lee's  
13                  Summit, Kingsville, Long Jack and  
14                  Holden. The others are identified  
15                  as Cass County schools in the  
16                  central office in Cass County.

17                  So there are 14 schools  
18                  altogether. Their tax levies are  
19                  averaged, that average levy applies  
20                  to utility property. The value of  
21                  the utility is set by the State, the  
22                  tax bill is presented, they write a  
23                  check and pay it to the County and  
24                  then the money is distributed back to  
25                  the schools. We rely on that money.



1                   It's important. Very important.

2                   In fact, Davis Rooney, a  
3                   representative from Aquila, last week  
4                   at a meeting mentioned the  
5                   possibility that Chapter 100 may not  
6                   apply to utilities.

7                   How much money are we talking  
8                   about? How big a deal is this?  
9                   We've got some large school districts  
10                  in the County and we've got some  
11                  small school districts in the County.  
12                  It's a big deal to every one of  
13                  them. To the small school districts  
14                  a small amount is still a big deal.

15                  If you take the calculations  
16                  and use the \$133 million figure  
17                  represented by Aquila and follow  
18                  through the taxation process, you'd  
19                  find the school districts in  
20                  alphabetical order would be affected  
21                  and I'll just run down the list.

22                  R-2 School District -- these  
23                  are yearly figures in tax revenue.  
24                  Yearly. Each year. Approximately  
25                  \$55,000. Belton, 496,000. Drexel,

1 42,000. East Lynne, my school  
2 district, very small, \$30,000, that's  
3 a teacher. Harrisonville, 298,000.  
4 Holden, 4,000. Kingsville, 8,000 --  
5 or 800. Lee's Summit, 33,000. Lone  
6 Jack, that's a nonresident district  
7 that extends into the County, 6,000.  
8 Midway, 85,000. Pleasant Hill,  
9 192,000. The Ray-Pec District, the  
10 largest in Cass County, more than  
11 half a million dollars, 522,000 --  
12 525,000 each year. Sherwood, 62,000,  
13 and Strasburg 29,000.

14 This is important to the  
15 schools. Very important. Without  
16 this tax revenue, we still have to  
17 run a school. We've got to figure  
18 out a way to do it. We've got to  
19 raise taxes on somebody else if we  
20 don't get it here. It's required to  
21 be paid here. That's the point I am  
22 here to make.

23 I've worked very closely  
24 with the citizens groups on this.  
25 Worked very closely with the

1           superintendents on this, been to  
2           several meetings on this. This is  
3           important. I can't under -- or I  
4           can't overstate the importance of  
5           this issue.

6                       I look forward and I'm sure  
7           most of the people here look forward  
8           to working with this body and the  
9           other political subdivisions involved  
10          for the best interests of everyone  
11          affected. I certainly appreciate  
12          your time, and I have a copy of my  
13          notes. I notice some of you taking  
14          notes, I should have mentioned in  
15          the beginning, you really didn't have  
16          to write it down because I'll give  
17          it to you. Thanks for your time.

18                      THE CHAIRMAN: Thank you.

19                      MR. WOOD: Good evening. I  
20          am Kevin Wood and I am honored to be  
21          here tonight with you. I am at 300  
22          East Pearl, Harrisonville, Missouri,  
23          and I am proud tonight to speak to  
24          you on behalf of The Board of  
25          Aldermen of the City of Harrisonville

1 and I am also honored to serve the  
2 near 10,000 residents of the City of  
3 Harrisonville as their Mayor.

4 As you heard earlier, The  
5 Board did pass a resolution and I  
6 have copies of that for you. If you  
7 will.

8 We spent a great deal of  
9 time, as I think you probably are  
10 going to do tonight and at other  
11 meetings, and actually visited the  
12 Greenwood facility. We had meetings  
13 with Aquila, the citizens, school  
14 boards with different schools  
15 districts were represented, and after  
16 listening to all of this, you have  
17 tonight before you a resolution that  
18 The Board has passed in opposition  
19 to the Special Use Permit for this  
20 location.

21 As you will see -- and I'll  
22 put this up -- the Harrisonville  
23 Planning and Zoning Commission and  
24 The Board of Aldermen have approved  
25 a Comprehensive Plan, and as you can

1 see from the mark on that plan, the  
2 proposed site is right within  
3 residential proposed growth of our  
4 community.

5 And we understand the  
6 schools' issues and certainly are  
7 sympathetic of them, but we believe  
8 that rooftops certainly are a benefit  
9 to our school district as well. Not  
10 that we're opposing power, we  
11 certainly appreciate it and want it,  
12 we just wish that they would look at  
13 another site that maybe wasn't as  
14 detrimental to our current growth.

15 Thank you. And at this time  
16 I will have Director Rick Deluca to  
17 speak on behalf of some other  
18 Comprehensive Plan issues. Thank you.

19 MR. DELUCA: Good evening.  
20 I'm Rick Deluca, 300 East Pearl  
21 Street, Director of Community  
22 Development for the City of  
23 Harrisonville.

24 You know, I would tend to  
25 agree with the applicant that the

1           need is here for this type of  
2           facility, but as we deal with in this  
3           County a rapidly growing County,  
4           planning is an issue and in planning  
5           you talk about location, and the  
6           same thing with property values, you  
7           talk location, location, location.  
8           And that is why this is so important  
9           this evening.

10                       The County Comprehensive  
11           Plan, which I'd like to sort of  
12           address, does address location issues  
13           and specifically in industrial areas.  
14           Policy I1.1 of your own Comprehensive  
15           Plan states, "Industrial sites should  
16           have access to arterial roadways."  
17           235th Street is not designated as an  
18           arterial roadway or a collector  
19           roadway on the County major  
20           thoroughfare map.

21                       Policy I1.3, "Industrial  
22           development should be located so as to  
23           minimize impacts on less intensive  
24           uses." Being adjacent to Shaffer  
25           Estates and some other homes is not

1 necessarily minimizing them because  
2 typically you want to separate your  
3 industrial uses from your residential  
4 uses.

5 This separation may be in  
6 the form of multifamily, commercial,  
7 office, something like that, but  
8 something to where you can step down  
9 for land uses.

10 Your Comprehensive Plan also  
11 states in policy I1.4, "New  
12 industrial users should be separated  
13 or buffered from nonindustrial uses."  
14 Again, there's no separation or  
15 buffer. The screening that they are  
16 proposing also is inadequate.

17 The screening that they are  
18 proposing along 235th Street  
19 encompasses basically oak trees and  
20 redbuds. Generally when you see a  
21 screen, it's evergreen trees, white  
22 pines, Norway, spruce, blue spruce,  
23 cedar trees, that type of thing. It  
24 is not going to provide much of a  
25 screen, especially, especially during

1 the winter months.

2 Policy I1.8, "Industrial uses  
3 should be encouraged to locate within  
4 existing cities." This is not within  
5 an existing city. It is on the  
6 fringe. It is on an area in which  
7 the City of Harrisonville is having a  
8 lot of new development and new  
9 development applications being  
10 submitted.

11 We have the Ranch  
12 development that is actually going  
13 before the Planning and Zoning  
14 Commission this next month. We also  
15 have the Katy Trails development,  
16 which they are currently building  
17 homes in that area right now.

18 Policy A1.1 encourages  
19 separation of urban and rural land  
20 uses. The closest -- and you may  
21 have a better idea than I do, but  
22 the closest industrial land use that  
23 I could think of in this area was  
24 approximately two and a half, three  
25 miles away.



1                   Now, placing this right in  
2                   the middle of an area that doesn't  
3                   have an industrial land use around  
4                   doesn't really fit into the character  
5                   of it, and whether it's a Special  
6                   Use Permit or an Industrial Zoning,  
7                   I would contend that that would be a  
8                   spot zoning type of action, and  
9                   Special Use Permits are zoning  
10                  actions.

11                  Policy G1.1, "New urban  
12                  development should be -- should not  
13                  be developed in a leapfrog type of  
14                  pattern." The area in which  
15                  development is occurring in this part  
16                  of the County is down around the  
17                  Jones Ranch and Katy Trails in the  
18                  northeast part of Harrisonville. By  
19                  jumping ahead nearly a mile, that is  
20                  a leapfrog type of action.

21                  Furthermore, I would  
22                  encourage you to review Article 8.C  
23                  of the standards. That the County  
24                  is obligated to review each SUP  
25                  application by and it addresses

1 issues such as the nature and the  
2 height of the structures and whether  
3 that's important or appropriate for  
4 the location, the adequate screening  
5 and buffering that would be  
6 established and also the proposed  
7 industrial use is compatible or  
8 whether it's compatible with Shaffer  
9 Estates and the surrounding  
10 residential areas.

11 And Section 8B(5) states,  
12 "In no case shall a Special Use  
13 Permit be granted if the proposed  
14 use will constitute a nuisance to  
15 public health, safety or welfare."

16 In summary, this application  
17 does not conform with the County's  
18 Comprehensive Plan, it does not  
19 conform with the City's Comprehensive  
20 Plan and I would contest that it  
21 does not conform to your own zoning  
22 ordinance also, the criteria that is  
23 outlined in it in the section with  
24 the Special Use Permits.

25 Are there any questions?

1 Thank you.

2 THE CHAIRMAN: Thanks, Rick.

3 MR. EPSTEIN: Good evening,  
4 members of The Board. My name is  
5 Mark Epstein, I'm an attorney with  
6 the Law Firm of Roe & Epstein. My  
7 address is 920 Main Street, Suite  
8 270, Kansas City, Missouri 64105.  
9 Our law firm represents the Cass  
10 County residents opposed to the  
11 placement of the power plant.

12 That organization consists  
13 of some 280 signators who have  
14 voiced their opposition, and I'm sure  
15 that you can judge by the failure of  
16 anybody to stand in support, that  
17 the remainder of this crowd is here  
18 in opposition. These are the types  
19 of people that we represent.

20 Our presentation will be  
21 limited to a number of people who  
22 have chosen to speak in opposition  
23 for a number of matters. I have  
24 brought with me this evening Mr.  
25 Stan Styron, who's the chairman of

1 the CCROPP who will be voicing  
2 opinions of those 280 people who he  
3 has worked with closely to gather  
4 signatures and try and come up with  
5 some key issues for you to take into  
6 consideration this evening.

7 Also with me this evening is  
8 Jim Gabriel who is probably one of  
9 the larger immediately adjacent  
10 property owners to this facility and  
11 he'd like to discuss with you some  
12 very personal impact, negative  
13 impact, that this proposed use will  
14 have on his property.

15 Also with us this evening is  
16 Judge Bill Collins who has some  
17 issues that he would like to address,  
18 and at the conclusion of our group's  
19 small presentation I will come back  
20 up here and take up some issues that  
21 I believe are relevant with respect  
22 to Article 8 of the Special Use  
23 Permit of the zoning ordinance, and  
24 how the application applies. And  
25 I'd also like to take that

1 opportunity to rebut some points that  
2 you have heard during Aquila's  
3 presentation.

4 At this point I'll turn this  
5 over to Mr. Sam Styron.

6 MR. STYRON: Thank you.  
7 I'm Sam Styron, I live at 24008 East  
8 232nd Street, which is in Shaffer  
9 Estates. I am the Chairman of this  
10 group we call CCROPP, Cass County  
11 Residents Opposing the Power Plant.

12 Now, as everyone has stated,  
13 we -- we're not opposed to power.  
14 We like power. We enjoy it today  
15 especially, but we are opposed to the  
16 placement -- inappropriate placement  
17 of a power plant. We're in a 300  
18 acre -- Shaffer Estates is a 300  
19 acre residential development, and our  
20 proposed neighbors are wanting to  
21 move in next to us with industrial  
22 development and that's our point.  
23 We think that's inappropriate  
24 placement of a power plant.

25 And the next thing, the

1 other point and purpose of our group  
2 is to insure that they are going to  
3 pay taxes appropriately. So I just  
4 wanted to let you again know, as Mr.  
5 Epstein said, we have at least 280  
6 signators on petitions opposing the  
7 placement of this power plant.

8 And as again, this crowd  
9 here is people from our group who  
10 are paying members, that's how we do  
11 business. And so anyway, we  
12 appreciate the opportunity to let you  
13 know that we're opposed and would  
14 appreciate you listening to the rest  
15 of our presentation.

16 I would like for Todd White,  
17 who was not mentioned while ago, were  
18 you going to speak, Todd? If you'd  
19 give him a moment here and then Mr.  
20 Epstein will be back again.

21 MR. WHITE: Thank you, Sam.  
22 I'm Todd White, I'm the  
23 Superintendent of Schools in  
24 Harrisonville, Missouri, 503 South  
25 Lexington.

1                   Our school district is  
2                   opposed to this power plant's  
3                   location because of much of what  
4                   you've heard from Rick Deluca and  
5                   Mayor Wood with regards to the  
6                   residential growth that can occur in  
7                   this area. Rooftops are good for a  
8                   lot of reasons, but certainly for  
9                   school districts, they bring  
10                  students. Also brings property taxes  
11                  as well as assessment valuation  
12                  increases from 12 percent of  
13                  agriculture to 19 percent for  
14                  residential.

15                 We like power certainly and a  
16                 growing county needs power. This  
17                 particular location, we believe, has  
18                 many detrimental affects on the  
19                 growth of Harrisonville, its school  
20                 district and the County in this  
21                 particular area of Harrisonville.  
22                 Thanks.

23                 MR. GABRIEL: My name is Jim  
24                 Gabriel. I live at 24201 East 235th  
25                 Street, Harrisonville, Missouri. My

1 property is directly adjacent to the  
2 proposed power plant.

3 Five years ago, before I  
4 started to -- the procedure for me  
5 to have the zoning changed from  
6 agriculture to residential I went  
7 downstairs to the Zoning and Codes  
8 Office and talked to the people down  
9 there. I'm a contractor so I know a  
10 little bit about due diligence and  
11 what you need to do. I asked  
12 pertinent questions about set asides,  
13 flood plains, any future commercial  
14 or industrial developments were set  
15 aside for this particular area. I  
16 was told, no, this was all for future  
17 residential growth.

18 I then put in my  
19 application, I stood before the group  
20 and I presented my application and I  
21 was granted a zoning change from  
22 agricultural to residential.

23 I'm now -- next week will be  
24 three years that I've lived in my  
25 house. I put every dime that I have



1 in that home, taken the property  
2 that was basically a field and  
3 created something that the County  
4 manages to tax me quite well on.

5 I have spent numerous days  
6 improving the property, building  
7 ponds, planting trees, things that  
8 are not identifiable as a value to  
9 the -- it's just a structure. I  
10 feel that with Aquila's proposed  
11 location of this power plant, it  
12 basically condemns my property. My  
13 dad's property is directly adjacent  
14 to this property. Bill and Sharon  
15 Martin's property is directly  
16 adjacent to this property.

17 I moved and built this house  
18 on this property because it was a  
19 great location. It offered peace  
20 and quiet. It offered a chance to  
21 have a buffer away from other  
22 neighbors. I moved from Lee's  
23 Summit to here to get away from the  
24 noise, to get away from the traffic  
25 and to enjoy a place where my wife

1 and I can retire and have a nice  
2 place to live without an intrusion  
3 of an industrial area right adjacent  
4 to my property.

5 I would suggest that I drove  
6 within about a mile and a half area  
7 of this proposed power plant, there  
8 were 102 homes in that area. Some  
9 of them are -- are being new, being  
10 just built, but this is going to  
11 impact an area that has -- was by  
12 the County and the City's own  
13 admission, designated to be zoned for  
14 residential.

15 If I would have known that  
16 there was going to be a commercial  
17 or an industrial development sitting  
18 in this area, I certainly would not  
19 have decided to build a home and try  
20 and spend the next 25 or 30 years  
21 next to an industrial power plant.  
22 It's not conducive to the area and I  
23 would hope that you would take into  
24 consideration all the things that are  
25 brought forth today on the opposition

1 of this.

2 I thank you for your time.

3 MR. COLLINS: Will you swear  
4 me in? I want to be sworn in front  
5 of everybody.

6 (Mr. William Collins was  
7 duly sworn by the Court Reporter.)

8 MR. COLLINS: William  
9 Collins. My address is 24100 East  
10 Shaffer Estates in Harrisonville,  
11 Missouri. I've been a resident of  
12 Shaffer Estates -- well, in fact,  
13 I've been -- I was the second home  
14 built in Shaffer Estates.

15 I'm here representing about  
16 -- a bunch of people. I'm an  
17 attorney. So this is kind of  
18 abnormal since I'm a judge also and  
19 I get to argue a case. I haven't  
20 done that in a long time.

21 I've got a lot of neighbors,  
22 a lot of them are construction  
23 workers, educators, there's a dental  
24 hygienist, there's a couple of  
25 business owners. They all have moved

1 out there some 14 years ago, and  
2 when we moved out there we thought  
3 we were moving out to a rural  
4 estates and that's what we did.

5 And then one morning I got a  
6 note. I got a note that said  
7 there's a power plant going in on  
8 235th Street. I'll be honest with  
9 you, I said, you're all crazy, that  
10 can't be happening because we're  
11 right in a rural district and I know  
12 that we have a Comprehensive Plan.

13 So I kind of laughed to  
14 myself, and I'll be very honest with  
15 you, I said, aw, can't be. I told  
16 my wife that, and then the truth  
17 came out. We had an informational  
18 meeting. I met all these people  
19 from Aquila. They met me. I asked  
20 some questions and that's what I do.

21 You might ask them about the  
22 June 1st, 2005 contract. Well,  
23 there's a little problem that they've  
24 had. The Aires plant been sold and  
25 they had to get some more power.

1                   They sold it for a loss of 46 and a  
2                   half million dollars. They sold it  
3                   because they made a mistake, and now  
4                   they've decided they're going to  
5                   rectify the mistake and they're going  
6                   to build themselves another power  
7                   plant.

8                               They forget to tell you  
9                   about their Pleasant Hill peaking  
10                  plant that is downtown Pleasant Hill  
11                  that's currently zoned industrial.  
12                  That's where a peaking plant is, and  
13                  they've got room for another engine,  
14                  jet engine, that -- which is what  
15                  they want to put on this property by  
16                  Shaffer Estates.

17                               Then they also have a  
18                  peaking plant in Greenwood, and they  
19                  will tell you how wonderful it is to  
20                  live next door to that peaking  
21                  plant. The problem they don't tell  
22                  you is it's 160 acres. They don't  
23                  tell you that it was built in the  
24                  early seventies before there was  
25                  development there.

1                   When I moved in 14 years ago  
2                   and built my house, and I live in  
3                   that house today, I knew there were  
4                   power lines, I knew there was gas  
5                   lines. I knew all that, and I  
6                   accepted those things, but I didn't  
7                   accept a power plant, an industrial  
8                   power plant, being placed in an area  
9                   where it's rural and where it's  
10                  residential.

11                  So I asked another question  
12                  of mine, you know, I ask questions,  
13                  and that's what I'm -- I've got  
14                  notes here, I just wrote them down.

15                  They talked about the fact  
16                  that it'd be easy for Aquila to put  
17                  in a power plant. I said, well,  
18                  let's make it easy for ourselves.  
19                  Well, sure, they want to make it  
20                  easy for themselves because they're  
21                  the -- they're an investor owned  
22                  company. They don't want to put out  
23                  any other cost because they're  
24                  looking to prop up their shares of  
25                  stock.

1                   That's the problem. They  
2                   haven't thought about the neighbors.  
3                   They tell you that they're going to  
4                   buffer it, but you can't tell me  
5                   that an oak tree grows very big  
6                   cause I've got one sitting right  
7                   beside my driveway and I'm telling  
8                   you right now, after 14 years it's  
9                   not very big.

10                  They've taken an idea that  
11                  they think that they can just drop  
12                  this plant in here after they had  
13                  their problems up in Pleasant Hill  
14                  and sold their Aires plant and bring  
15                  it down to Harrisonville. That's the  
16                  problem I've got. They have a  
17                  peaking area in Pleasant Hill, they  
18                  won't tell you about that. They  
19                  have a place in Greenwood where they  
20                  could add on, they've got 160 acres  
21                  for that peaking plant.

22                  And they want to take you up  
23                  there and show you that plant. In  
24                  fact, I encourage you to go up. If  
25                  you go up, you look and there's 30

1 years of growth around that plant.  
2 That's the problem. That's the  
3 problem. They want to compare  
4 apples and oranges, ladies and  
5 gentlemen.

6 They want to show you a  
7 plant where people knew there was a  
8 peaking plant there when they moved  
9 in. You have -- you know when you  
10 move into a peaking plant. You know  
11 if you move in next to a pig farm,  
12 you know. If it's there, you accept  
13 it and that's what you buy.

14 That's one of the problems  
15 that I see here. Jim Gabriel talked  
16 about due diligence. He's one of  
17 the most diligent persons that I  
18 know. He looks at everything, and  
19 that's the problem, they didn't let  
20 us know. If they want to let us  
21 know that they're going to build a  
22 peaking plant, they should have told  
23 us a long, long time ago before  
24 everybody built their homes there.

25 I kind of laughed about the



1 fact that they said that they don't  
2 think they'll account for the fact  
3 that there's an increase of cost to  
4 their plant because they have to  
5 build an extra gas line or they have  
6 to make some adjustments. The  
7 Public Service Commission isn't even  
8 going to review this. They're not  
9 even going to review this within  
10 their certificate area.

11 So them telling you that  
12 somehow the Public Service Commission  
13 is going to somehow make a decision  
14 on this, it's not true. They don't  
15 have to request anything from the  
16 PSC because it's within their service  
17 area. There's not going to be any  
18 hearing for the Public Service  
19 Commission to build this plant. It  
20 simply isn't going to happen.

21 Additionally, they know for  
22 a fact that they do take into  
23 account when they have to make  
24 adjustments to cost, if they're  
25 reasonable costs the rates will be

1 adjusted. They know that, they do  
2 it every day, every year. They've  
3 got a couple pending rate increases  
4 right now. They know that's part of  
5 the deal when you're a public  
6 utility. That's why they're  
7 regulated -- they're doing a  
8 regulated plant.

9 That's the problem that I'm  
10 seeing here is they've got to tell  
11 you everything. They don't want to  
12 tell you that stuff, but they need  
13 to tell you that, about their other  
14 locations that they've already got  
15 peaking plants in that would be able  
16 to service this area. So we don't  
17 have to ruin the possibility for  
18 Jones Ranch and Katy Trails, which  
19 are already developments that are on  
20 The Board for the City of  
21 Harrisonville.

22 And it's within the  
23 Comprehensive Plan that the City  
24 developed. It's within the  
25 Comprehensive Plan that the County

1 developed. We need to stay within  
2 the Comprehensive Plan. Thank you.

3 MR. EPSTEIN: Thank you, Mr.  
4 Collins, Mr. Gabriel and Mr. Styron.

5 Ladies and gentlemen of The  
6 Board, let's talk about what this is  
7 not. What's before you today is not  
8 about supplying electricity, and what  
9 you heard the bulk of the  
10 presentation from the applicant is  
11 their need, their desire, their  
12 ability, their cost.

13 What you didn't hear them  
14 talk that much about is Article VIII.  
15 This is not your responsibility to  
16 find Aquila the most logical  
17 cost-effective place to put their  
18 peaking plant. Your job is not to  
19 find them a suitable facility, your  
20 job is to interpret the Special Use  
21 Permit provisions and determine  
22 whether or not the placement of that  
23 facility on this piece of ground  
24 promotes the health, safety and  
25 welfare of this community. That's

1                   your job.

2                               Their job is to try and find  
3                   a suitable facility. When you take  
4                   a look at Article VIII, Section C,  
5                   that sets forth basically your  
6                   criteria for evaluating your -- this  
7                   application. Section C is the  
8                   standards for issuance of Special Use  
9                   Permits.

10                              And the number one standard  
11                   is the location and size of the  
12                   proposed use in relation to the site  
13                   and to adjacent sites and uses of  
14                   property. And it goes on to talk  
15                   about the nature and intensity of  
16                   operations proposed thereon.

17                              The next standard under 6 is  
18                   the general compatibility with  
19                   adjacent properties, other properties  
20                   in the district and the general  
21                   safety, health, comfort and general  
22                   welfare of the community.

23                              Well, let's take a look and  
24                   see what exactly is proposed and how  
25                   exactly that is in relation to the

1 site and the adjacent sites and uses  
2 of properties.

3 Adjacent to this property  
4 you heard Mr. Gabriel say he owns  
5 one house, 20 acres. His father owns  
6 one house, 19 acres. Those are the  
7 types of sites that are adjacent.  
8 Mr. Gabriel doesn't own a 315  
9 megawatt peaking plant with three  
10 turbine engines and barbwire fencing  
11 with No Trespassing signs posted  
12 every 50 feet.

13 Now, if you can tell me that  
14 a site of this size, which is going  
15 to contain not just a peaking plant  
16 -- cause it's important if you were  
17 to read that binder of information  
18 page-by-page, you'll understand that  
19 this isn't just a peaking plant with  
20 three turbine engines.

21 It's a substation, it's a  
22 fuel gas conditioning equipment  
23 storage place, it has road access,  
24 it has a control and communication  
25 facility, it has construction

1 equipment storage and erection, there  
2 is contractor parking, there's a  
3 field office facility, there's a 50  
4 foot exhaust stack.

5 Now, if you've driven 235th  
6 Street, you're not going to find  
7 another 50 exhaust stack, and I  
8 assure you you're not going to find  
9 another 75 foot lightning tower. So  
10 how then does this applicant come  
11 before you and tell you with a  
12 straight face that it has met the  
13 criteria in Article VIII that somehow  
14 the location and size of the  
15 proposed use is in relation to  
16 adjacent uses on adjacent sized  
17 properties?

18 Because if you don't see  
19 other compounds surrounded by  
20 barbwire with 50 foot spaced No  
21 Trespassing signs, then I would  
22 submit to you it's not adjacent --  
23 adjacency compatibility. If you  
24 don't see other 50 foot towers and  
25 75 foot lightning towers, that's not

1 compatible with surrounding uses.

2 Let's take a look at what  
3 this facility is going to generate as  
4 opposed to what, say Mr. Gabriel's  
5 facility would generate. Mr. Gabriel  
6 has a house. It generates no noise,  
7 no dust, no electricity, expends no  
8 diesel fuel.

9 But if you were to take the  
10 time to look at the MDNR report and  
11 see what exactly this facility does,  
12 in the review summary on page 9  
13 you'll see that the MDNR in its  
14 review application for authority to  
15 construct and operate under Section  
16 VIII review, it says, "Hazardous air  
17 pollutant, HAP, emissions are  
18 expected from the proposed equipment  
19 due to the combustion of natural gas  
20 and diesel fuel. The primary HAPs  
21 of concern from the proposed  
22 equipment are acrolein, formaldehyde,  
23 polycyclic aromatic hydrocarbons and  
24 the potential emissions of  
25 formaldehyde are above its respective

1 threshold level, but less than major  
2 source levels."

3 If you go on to read you'll  
4 see the second bullet point on page  
5 10, it says, "Potential emission of  
6 nitrous oxide, carbon monoxide and  
7 PM10 are above significant levels."  
8 This is the type of facility that you  
9 want to bring to your community? Is  
10 this the type of facility that is  
11 somehow compatible with the adjoining  
12 uses?

13 If you were to ask Mr.  
14 Gabriel or his father how many tons  
15 of carbon monoxide he produces in a  
16 year, I guarantee you the answer is  
17 none. If you were to ask him how  
18 many tons of nitrous oxide or  
19 formaldehyde that his adjacent use  
20 produces in a year, I can assure you  
21 the answer would be none.

22 But if you were to continue  
23 your review of the MDNR report and  
24 go to page 12, all of these criteria  
25 pollutants will be emitted from the



1 operation of these units with PM10,  
2 nitrous oxide and carbon monoxide  
3 being emitted in amounts greater than  
4 significant levels, i.e., greater  
5 than de minimis levels.

6 HAP emissions are also  
7 expected due to the operation of the  
8 turbines with the main HAP of  
9 concern being formaldehyde, and if  
10 you took the time to study the chart  
11 that's provided, buried in the back  
12 of their application, you would see  
13 that the MDNR has published what they  
14 call their emission summary that sets  
15 forth for you what is the permitted  
16 amount of tonnage of each of these  
17 toxic chemicals that it's okay to  
18 spit out into the air.

19 For example, nitrous oxide.  
20 The maximum regulatory de minimis  
21 level in tons per year is 40. It's  
22 the most you should do according to  
23 the MDNR. Keep in mind, that's still  
24 40 tons a year.

25 What is Aquila bringing to

1 the County? Well, if you try and  
2 play with the numbers and you just  
3 look at the per hour rate, you're,  
4 fortunately only down to 309 tons a  
5 year. 309 tons a year when the  
6 maximum is supposed to be 40. Now,  
7 if you go to their potential  
8 emissions, that would give you 1,075  
9 tons when the limit's 40.

10 Protecting the health, safety and  
11 welfare of the community?

12 Let's look at formaldehyde.  
13 Regulatory de minimis levels, two  
14 tons per year. Best case scenario,  
15 condition potential based on our  
16 limitations? Double that, almost  
17 four tons. The potential, 13.58  
18 tons. Nearly seven times greater  
19 than the actual level that's supposed  
20 to be permitted by the MDNR.

21 So ask yourself this, how  
22 exactly does this type of peaking  
23 plant satisfy the criteria in your  
24 Zoning Ordinance under Article VIII  
25 that the nature and intensity of the

1 operations proposed thereon are  
2 somehow compatible with these folks'  
3 houses?

4 These are single-family  
5 homeowners and you have to determine  
6 whether or not that site -- and you  
7 heard the mayor of the City of  
8 Harrisonville tell you, their Comp  
9 plan says this is supposed to be  
10 residential. You heard Rick Deluca,  
11 the staff planner, tell you that your  
12 Comprehensive Plan says this is  
13 supposed to be residential.

14 If you were to listen to the  
15 other 280 people who had signed  
16 those petitions, they expected it to  
17 be residential. I submit to you  
18 that this is not about making sure  
19 that electricity is provided. This  
20 is about good land use planning, and  
21 this proposed location with this type  
22 of use is not good land use planning.

23 Well, let's actually go  
24 through and take a look at the rest  
25 of these things. The sound levels.

1 Noise, dust, sound. Those are the  
2 big three that people are opposed  
3 to. The sound levels were  
4 calculated -- and if you -- and  
5 again, this is all buried in this  
6 application and if you read it  
7 line-by-line and page-by-page you'd  
8 see that their sound levels were  
9 calculated using manufacturer's data  
10 at 59 dba, which does not exceed  
11 your 60 dba daytime limit.

12 Let's break that down. They  
13 determined the sound levels based on  
14 manufacturer's data. What do you  
15 think that means? A brochure? Did  
16 they -- did they go to another  
17 peaking plant -- and they obviously  
18 have several available because  
19 they've shown you how beautiful they  
20 are and how everybody wants to build  
21 next to them.

22 Why didn't they bring to you  
23 a decibel reading from another  
24 peaking plant to determine whether or  
25 not the actual dba exceeds 60? What

1           they provided is a manufacturer's  
2           data. Now, we all know that a  
3           manufacturer would never puff their  
4           product because everybody sells a  
5           bigger, faster, cheaper, more  
6           efficient whatever it is.

7                        So the best case scenario  
8           you've got is the literature by the  
9           manufacturer who wants you to buy  
10          their product, who comes in at 59  
11          decibels which is just under your  
12          daytime limit of 60 decibels, and  
13          that's going to be running 4,000  
14          hours a year. Well, that's a limit,  
15          truely that's not much, but do the  
16          math. 4,000 hours a year is 11  
17          hours a day every day.

18                       Are any of those hours going  
19          to be at night? Because if they  
20          are, they're probably going to --  
21          they're probably going to exceed a  
22          nuisance level. If you have a  
23          separate nighttime level versus a  
24          daytime level. I certainly wouldn't  
25          want to be immediately adjacent to

1 something that is this much under the  
2 threshold if you use the sales  
3 brochure only during the day and  
4 that's 11 hours a day.

5 Still emits hazardous air  
6 pollutants. You've got the perimeter  
7 fence with No Trespassing every 50  
8 feet and there still hasn't been a  
9 final determination of what they're  
10 going to do with their sanitary  
11 facilities. So you don't know what  
12 the sanitary waste is going to do.

13 But let's look at what they  
14 told you and really take a look and  
15 see if what they've given you is an  
16 accurate depiction. While I  
17 appreciate their attorney's inference  
18 that somehow that SUP is a more  
19 limited time than a rezoning. Well,  
20 that's true of the underlying fee,  
21 if this is an SUP for an unlimited  
22 time, then I would submit to you  
23 it's the same thing as an indefinite  
24 rezoning.

25 True, if this use were to go

1 away the underlying zoning is still  
2 apt, but if this use never goes away  
3 isn't that the same thing as being  
4 tantamount to a zoning? You have  
5 forever changed the use of this  
6 property by giving it an unlimited  
7 Special Use Permit that on the -- on  
8 the best day you might hope for an  
9 abandonment of nonuse after 12 months.

10 Obviously the size is larger  
11 than a single-family home on acreage  
12 so it can't possibly meet the  
13 location and size and intensity of  
14 operation requirement. It clearly  
15 exceeds at least one of your zoning  
16 violations -- or one of your zoning  
17 criteria on height of buildings and  
18 they've now had to ask for a  
19 variance.

20 What Mr. Keefe told you is  
21 we have an obligation to build at  
22 the lowest cost. What I want to ask  
23 you is how exactly do they reconcile  
24 their desire to build at the lowest  
25 cost with your desire to protect the

1 health, safety and welfare of the  
2 environment? Just because that's the  
3 cheapest place to put it, doesn't  
4 mean it's the best place to put it  
5 for the citizens of this County.

6 And again, your job isn't to  
7 find them the best place for their  
8 facility. Your job is to protect the  
9 health, safety and welfare of this  
10 community and ensure adequate and  
11 appropriate land use planning.

12 Now, Mr. Stower brought up  
13 the point that the Greenwood Energy  
14 Center down there is on 160 acres  
15 and there's been tons of development  
16 around it. But I think Mr. Collins  
17 adequately addressed that by saying  
18 they came in afterwards, what us  
19 lawyers commonly refer to as coming  
20 to the nuisance.

21 There's nothing wrong with  
22 building around a power plant, a  
23 septic tank, a pig farm, a shopping  
24 center, a landfill, as long as you  
25 know what you're getting into. And



1           you have to assume, as prudent real  
2           estate buyers, that they took that  
3           into account in their purchase price.  
4           That some prudent buyer said, I'm  
5           not going to give you the exact same  
6           amount of money to buy in this  
7           subdivision next to a peaking plant  
8           that runs 11 hours a day with  
9           turbine engines, as I would for this  
10          subdivision across town of equal size  
11          and equal quality building materials.  
12          There's no way.

13                       The problem we have here is  
14          they've got the cart ahead of the  
15          horse. This is not a case where they  
16          build a plant and everybody expands  
17          around them and there's no damage.  
18          This is a case where these people  
19          built first and they didn't see this  
20          coming.

21                       So what they don't give you  
22          an answer to is, what's the negative  
23          impact on the property values to  
24          already established residences?  
25          That's what they don't tell you.

1 But, see, that's your job, not to  
2 find them the best place to put the  
3 plant, but to make sure that these  
4 people's property values aren't  
5 damaged.

6 So in conclusion, what have  
7 we heard here tonight? Well, you  
8 know that the City of Harrisonville  
9 doesn't want this. You've obviously  
10 heard that the school district  
11 doesn't want this. I think we've  
12 made it clear that the citizens  
13 don't want this. I think it's also  
14 clear that they can't meet the  
15 Article VIII zoning requirements.  
16 They don't meet their Comp Plan,  
17 they don't meet your Comp Plan, they  
18 don't meet the zoning ordinance.

19 And with all that  
20 information in mind, we appreciate  
21 your time and we respectfully request  
22 that you send a serious denial on to  
23 The Board. Thank you very much.

24 THE CHAIRMAN: Thank you, Mr.  
25 Epstein.

1 MR. NIXON: Good evening.  
2 My name is Bill Nixon, I reside at  
3 2311 South Jefferson Parkway in  
4 Harrisonville -- or north of  
5 Harrisonville.

6 You may say I'm a land bridge  
7 between Shaffer Estates being -- the  
8 railroad is my eastern boundary. If  
9 you look at their map where it said  
10 railroad, that's me. I'm a half a  
11 mile from the western boundary of  
12 Shaffer Estates and I'm directly  
13 across the street from what the City  
14 proposes as an alternate of the  
15 North Lake area.

16 But I propose that this is  
17 not a good deal for Cass County in  
18 any fashion. I've heard many things  
19 tonight, but I suspect that -- more  
20 conflicts than not and I won't get  
21 into those details, I'll keep it  
22 simple.

23 On November the 3rd past, the  
24 Missouri Public Service Commission, an  
25 electricity roundtable mix, Ryan

1 Kind, the chief energy economist of  
2 Missouri Office of Public Counsel  
3 stated, and I quote, "A. Capacity  
4 additions in Missouri have been made  
5 more than double the amount needed  
6 to keep pace with load growth." Do  
7 you follow that?

8 "B. Missouri's position as  
9 a net exporter of power has  
10 continued to strengthen. Any power  
11 they generate would be sold somewhere  
12 else.

13 "C. Missouri's net  
14 increases are more than double that  
15 of Iowa and Kansas."

16 This proposed plant,  
17 regardless of location or whatnot, is  
18 a lifeline thrown out for somebody  
19 that's sinking. All you have to do  
20 is follow the press a little bit.  
21 Aquila's financial condition is  
22 perilous at best. The Pleasant Hill  
23 plant, they defaulted on the loan,  
24 they took a hell of a beating on it.  
25 Excuse me.