

1 But in the process of
2 getting that placed, they got all
3 kinds of tax exemptions and one
4 thing and another, and they sold it
5 to a California company, as I recall.
6 Guess who got advantage of those tax
7 rebates and credits? A foreign
8 corporation, if you will. Someone in
9 California. Not someone in Cass
10 County, Missouri, but it's on the
11 back of the Cass County taxpayer
12 that it went there.

13 The Kansas City Star, June
14 the 24th of this year. "Credit
15 rating revised. Debt rating already
16 at junk level, further reduced the
17 injunction against -- by the State
18 of Nebraska against Aquila from
19 spending \$504 million in proceeds
20 from the sale of its Canadian
21 utilities."

22 They're scared they can't
23 perform, so they slapped an
24 injunction on them to keep them from
25 spending this money.

1 C. Kansas City Star, July
2 the 10th, just three days ago. Did
3 you see it? "Energy companies sued,
4 including Aquila." Kansas City Star
5 here. They were sued by San
6 Francisco and another county in the
7 State of California for billions of
8 dollars because of manipulation of
9 natural gas prices.

10 Now, more on that later.
11 Because they started manipulating
12 ours here this past month if you're
13 not paying attention. We'll get on
14 to that in a little bit.

15 Water. Harrisonville can't
16 supply the water. Water District
17 Number 9 has to supply the water.
18 Twice last year they got dangerously
19 low on water, I know for a fact They
20 built a minature storage tank just
21 east of me now that will -- in
22 conjunction with the Tri-County Water
23 Authority which will help immensely
24 and should be able to service their
25 need, but the need is staggering.

1 Darrell Kohler, who runs
2 Water District Number 9, happens to
3 farm my ground -- farm ground, and
4 has for years. So we've had pretty
5 good conversations about this.
6 According to what he told me it
7 takes 135,000 gallons of water a day
8 to cool that little puppy down.

9 Rates. I pulled my bill out
10 just to look. The first thousand
11 gallons that you use each month you
12 spend \$14 for. Each additional
13 thousand gallons is \$6.50. Assuming
14 they pay the same rates, it's going
15 to cost them \$885 a day to supply
16 water for this puppy.

17 Now, unless they get some
18 kind of a break, you know. So let's
19 just round it out and call it a
20 grand a day. If they run it 20
21 days, that's 20 grand. If they run
22 it 30 days, that's 30 grand. I
23 mean, simple math for simple people,
24 that's me, simple people. I just
25 come here to retire, not to get

1 screwed up with this deal.

2 As a patron of Water District
3 Number 9, this really got me shook
4 up. With their financial condition
5 like it is, let's say they don't pay
6 their water bill for two months.
7 What the heck happens? It comes
8 right back to the rest of the
9 patrons of Number 9 to pick up the
10 slack or we do without water. Well,
11 that dog don't hunt, as they say
12 back home. That just don't work,
13 that's not the way this thing should
14 be.

15 I have suggested to Darrell
16 that maybe they ought to get some
17 sort of a surety bond or something
18 of that magnitude that says if they
19 don't pay their bill somebody else
20 pays it, or if they want to go up to
21 North Lake, if the City wants to
22 think that's such a good deal, let
23 the City pay for it. You know, we
24 can bill the City for the water and
25 the City can pay the water bill, that

1 seems reasonable.

2 If you noticed -- how many
3 of you own Aquila? How many get
4 power from Aquila? Okay. In May
5 they took a little healthy price
6 increase. Did you pay any attention?

7 UNIDENTIFIED MAN: Yes.

8 MR. NIXON: 600 kilowatt
9 hours was 6.93 cents per kilowatt
10 hour or however they billed it. It
11 went to .0725, seven and a quarter
12 cents. The next 400 went from .0474
13 to 0746. All over that went to
14 0784. To-wit: the first 600
15 kilowatt hours went up 4.6 percent.
16 The second 400 kilowatt hours went up
17 57.38 percent. The third kilowatt
18 hours went up 100 -- it went up 65.4
19 percent, if my math's right, and I
20 think it is.

21 Additionally, our fathers
22 who art in Jeff City granted them
23 that deal to say that, hey, if the
24 gas prices are wrong and you have to
25 pay more for it, we're going to give

1 you the added ability to pass that
2 straight on to the consumer, which
3 they did, starting in May, which
4 amounted on my bill to a 3.8 percent
5 increase for the month just on the
6 additional energy charge.

7 Now, let's crank this pup up
8 out here, you know, the patient. If
9 we're paying over now and we've been
10 not -- certainly not using peak, I
11 don't know how they rate this stuff,
12 but the burden of that's going to
13 fall to Aquila customers to pay that
14 on their bill. If they're going to
15 sell to Iowa or Nebraska or somebody
16 else and they may end up paying less
17 per kilowatt than we're paying here
18 and that makes no sense at all.

19 I mean, I'm not very smart
20 but that doesn't -- that don't --
21 don't figure to me at all.

22 What's even scarier when you
23 take that into consideration is the
24 lawsuit that they got involved in in
25 California. What they were doing

1 was reporting higher gas prices so
2 they could pass this charge on to
3 their other customers. We don't
4 have to help them to report the
5 prices or what, I mean, they're a
6 gas company too. Are they buying it
7 and they say, well, let's raise the
8 price today and pass it on to the
9 bumpkins out there in Cass County,
10 they don't know the difference, and
11 then we'll sell it out in Nebraska
12 and they'll probably pay less.

13 Folks, this is not a good
14 deal for Cass County in any fashion.
15 It's not good for the State of
16 Missouri that I can see. Now, all of
17 this I think is a matter of public
18 record, I certainly didn't bring it
19 up. You can pick it up in the
20 Kansas City Star or various
21 publications, and a resounding no to
22 anyone in this County is what's
23 called for.

24 Thank you.

25 THE CHAIRMAN: Thank you, Mr.

1 Nixon.

2 Folks, we have seven minutes
3 left in this session, then we'll take
4 a ten-minute break.

5 Mr. O'REILLY: I'm Kevin
6 O'Reilly at 20300 East 235th Street
7 in Harrisonville, up by North Lake
8 and also a neighbor of Mr. Nixon.
9 First off, I can't wait for the day
10 when Mr. Nixon decides to come out
11 of his shell.

12 Mr. Nixon and others here
13 tonight have made some very good
14 salient points regarding Aquila's
15 proposed plant, and also Mr. Nixon
16 brought out a couple things regarding
17 the rumor going around that the City
18 may be looking at North Lake for the
19 plant.

20 More than anything else,
21 when I came here tonight, I was
22 counting the number of people from
23 North Lake that were here tonight,
24 and we are not only supporting our
25 position of not putting it at North

1 Lake, but also we're supporting the
2 position it shouldn't go in Shaffer
3 Estates either.

4 The bottom line is that this
5 is not an either/or situation. This
6 is actually more of a neither/nor
7 situation. I have no problem with
8 electricity, I like my juice, okay,
9 and I use quite a bit of it, but the
10 bottom line is this. Mr. Nixon
11 brought up a number of good points
12 from Ryan Kind's presentation, which
13 is available on the Internet and I
14 thoroughly recommend anyone take a
15 look at that particular presentation
16 that's on the Missouri Public Service
17 Commission website.

18 But Mr. Kind actually
19 summarized. "As I have monitored
20 the situation in Missouri over the
21 last few years, it is difficult to
22 reconcile the facts with the sky is
23 falling characterizations often made
24 in certain public forums by
25 Missouri's regulated investor-owned

1 utilities such as Aquila." Okay.

2 If we need the power plant,
3 we need the power plant, but right
4 now they really haven't shown that
5 they really need a power plant.
6 That's 1.

7 2, they certainly haven't
8 been able to show that they can pay
9 for the power plants that they've
10 got. And more importantly -- I
11 mean, my dad was a businessman in
12 Kansas City, a very successful
13 insurance person for 40 years, and
14 he just never did business with
15 people that had the low junk bond
16 ratings.

17 So, more than anything else,
18 we're here to support our friends in
19 Shaffer Estates and we're also here
20 to just ask the good people of Cass
21 County to use some common sense, you
22 know, in taking a look at this very
23 serious issue.

24 And with that I'll say thank
25 you.

1 THE CHAIRMAN: Anyone else
2 like to come forward?

3 Okay. We will take a break
4 and be back at 9:00 o'clock.

5 (Whereupon, a recess was
6 had.)

7 THE CHAIRMAN: If everybody
8 will go back to their seats, we'll
9 start the next section of this.

10 Are you ready Mr. Thomson?

11 MR. THOMSON: Yes.

12 THE CHAIRMAN: The floor is
13 yours.

14 MR. THOMSON: Thanks, I
15 think. Members of The Board and
16 Chairman and members of the public.
17 Thank you again.

18 Obviously the folks here who
19 came out to speak against this
20 project had a lot of say and we
21 certainly appreciate that, understand
22 your points of view and are
23 sympathetic to a lot of the concerns
24 raised.

25 It's not possible in the

1 time we have here to answer each and
2 every one of those questions with a
3 rebuttal, I think we're allotted 15
4 minutes so I want to be very
5 efficient with our response, but I
6 would like to address several of
7 them and I'll have some of the folks
8 from the utility also address them.

9 You know, there's a lot of
10 talk about zoning. This is not a
11 rezoning request, it's a Special Use
12 request. The property is zoned
13 agricultural, and Mr. Epstein
14 properly pointed out that this
15 Board's duty is to determine whether
16 or not our Special Use Application
17 complies with the County ordinance.
18 It's not your duty to decide whether
19 or not we complied with Environmental
20 Protection Agency rules and regs or
21 MDNR rules and regs or any of those
22 other issues that were raised that
23 are not relevant to the question at
24 hand, which is the Special Use Permit.

25 Obviously, as a utility

1 provider and good corporate citizen,
2 we're going to abide by all of the
3 rules and laws and regulations that
4 govern the use of the site and the
5 production of electric power. And
6 that goes without saying that those
7 rules and regs will be abided by and
8 followed by us in every respect.

9 In that regard, I would like
10 to also talk about -- briefly about
11 the -- some of the tax issues that
12 were raised. We're not here tonight
13 to decide whether or not this
14 particular facility should somehow
15 receive a tax break or not receive a
16 tax break. The fact of the matter
17 is that the issue of tax break under
18 Chapter 100 or any other program
19 isn't before this Board this evening
20 and that's a decision that we,
21 frankly, have put squarely in the
22 hands of the County as to whether or
23 not that is something the County
24 desires to pursue.

25 We have an obligation as a

1 regulated utility to provide the
2 lowest cost alternatives within
3 reason and within the confines of
4 other laws, and so in that regard we
5 are obligated to consider whether or
6 not a Chapter 100 tax abatement is
7 suitable and appropriate. But,
8 frankly, we're not stuck on the
9 notion of getting a tax break for
10 this site. We have said we'll work
11 hand-in-hand with the County and
12 we'll work with them on the solution
13 to that.

14 The fact of the matter is if
15 this plant is built without tax
16 abatement there will be a tremendous
17 amount of tax benefit for the taxing
18 jurisdiction that includes
19 overwhelmingly the school districts.

20 And on that point I would
21 like to make a note that the
22 representations made earlier
23 regarding school district tax issues
24 and stuff were just -- just were not
25 correct, and I have a letter here

1 that I'd like to submit to The Board
2 from the State Tax Commission that
3 clarifies some of the actual numbers,
4 so that there's no misunderstanding
5 by this Board about what those actual
6 tax representations are.

7 I don't know who to give
8 that to.

9 I think I'd like to start
10 off with Mr. Brock Andrews -- Mr.
11 Block Andrew, excuse me, to address
12 some of the environmental issues
13 raised by Counselor Epstein. I think
14 it's fair to say that if you took
15 the approach that Mr. Epstein has
16 suggested you approach, there
17 wouldn't be any electric power plants
18 in the State of Missouri because none
19 of them could possibly be compliant,
20 and so I'd like Block to address
21 some of those issues for you.

22 MR. ANDREW: Thank you..
23 I'm Block Andrew, I'm Director of
24 Environmental Services for Aquila.
25 My address is 20 West 9th Street,

1 Kansas City, Missouri 64105.

2 And there were three issues
3 related to environmental that were
4 brought up that I have notes on.

5 The first was in --
6 regarding to air emissions and air
7 permit. Missouri DNR is the expert
8 Environmental Protection Agency.
9 They're the experts on air quality
10 and we have to submit a permit
11 application to them, and included in
12 that permit application we have to
13 meet the best available control
14 technology out there. They will not
15 issue a permit unless we meet that.

16 So it's their determination
17 of whether we do that. There's a
18 public meeting on that, I believe
19 the 29th, I believe, of this month
20 at the armory. There'll be an
21 advertisement in the paper where
22 people can have comments in regards
23 to that.

24 Also, we're using natural
25 gas, which is the cleanest fossil

1 fuel out there. So, I just wanted
2 to make those notes to you.

3 The second issue in regards
4 to sound, and there was discussion on
5 manufacturer's data, can you believe
6 them, can you not, et cetera. Well,
7 guess what, there's a contract that
8 says they have to meet it. If they
9 don't meet that, they are responsible
10 for making the changes to do that.

11 Now, it's a case where these
12 folks build a lot of combustion
13 turbines. So they have noise data
14 from the exact same turbines that we
15 have. So they know the noise
16 levels, they know they have to meet
17 that, and as a matter of fact, we
18 will hire an independent party to go
19 out after the facility is built to
20 make sure they meet that and if they
21 don't, they have to fix is.

22 Another thing that I wanted
23 to talk about was, again, a third
24 party that I would refer to is
25 Bucher, Willis. In their report they

1 looked at the noise information and
2 it was based on their determination
3 that the noise levels were compatible
4 with residential use.

5 And just giving you some
6 examples, you know, 59 is the highest
7 we would see, decibels. The Service
8 Transportation Board, which is
9 railroads essentially, they -- they
10 look at noise mitigation at levels of
11 70 decibels. The Federal Aviation
12 Administration, 65. The Federal
13 Highway Department, 67. Housing and
14 Urban Development, 65. So you can
15 see that it's logical that Bucher,
16 Willis came up their numbers that it
17 was indeed compatible.

18 The third issue was in
19 regards to water. I want to stress
20 that water is not required to run
21 these turbines. What we use that
22 for is -- is called evaporative
23 cooling, which essentially provides a
24 few extra megawatts So instead of
25 going out to buy more expensive

1 power, that's something that you
2 would use very rarely.

3 As a matter of fact, we have
4 that same system -- same type of
5 system at Greenwood Energy Center.
6 We rarely use it, and those -- the
7 use is based on the weather
8 conditions. Well, I think the
9 weather conditions are probably
10 pretty similar between Greenwood and
11 our particular site. So if we're
12 not using it much at Greenwood, I
13 would fully expect that we wouldn't
14 use it much at Camp Branch.

15 I think that's it. I'll
16 turn it back to -- if you have
17 further questions after this you can
18 ask me.

19 MR. THOMSON: Again, trying
20 to address as many issues as we can
21 in a short period of time. It's our
22 understanding that for every \$10
23 million in investment that we make
24 there's approximately \$130,000 in
25 what we call construction work in

1 progress payments that will be made
2 to the local taxing jurisdictions
3 which will go overwhelmingly to the
4 school.

5 Those, regardless of whether
6 the company seeks a Chapter 100
7 abatement or not, are payable.
8 Regardless, there's no avoiding of
9 that. And the fact of the matter
10 is, those are only payable during the
11 construction period.

12 If we don't commence
13 construction on this plant in the
14 year 2004, there's a good chance
15 that those payments will never be
16 made because they're only -- they're
17 only made during the calendar year
18 and that's determined as of January
19 1. So it's important if the folks
20 in this County would like to see
21 those tax payments to come, that
22 they would be under construction
23 before the end of the year.

24 There was a reference to the
25 Aires plant that was sold by the

1 utility. For legal and business
2 reasons that would make no sense to
3 go into here, that plant was
4 required to be sold, and the actual
5 purchaser of that plant was a
6 copartner in the plant with Aquila,
7 it wasn't sold to some third party
8 that had nothing to do with the
9 plant at the outset. But for a
10 number of legal and business reasons
11 the utility was required to make that
12 transaction. So it wasn't something
13 that we just did for the sake of
14 doing it.

15 Some of the questions that
16 the Judge raised, frankly, a
17 comparison to a pig farm, is unfair
18 and disingenuous. We don't think
19 there's any comparison here and I
20 think those of you here know that.

21 The notion of the need 14
22 years ago, the need didn't exist 14
23 years ago. If the need had existed
24 14 years ago, perhaps some utility
25 would have been looking to put a

1 site -- a facility on this site.

2 This notion of recovery
3 costs from the Public Service
4 Commission will be addressed by
5 another one of our speakers, real
6 briefly.

7 There was a reference to
8 some of the construction traffic and
9 construction infrastructure and
10 things like that, that's all
11 temporary, folks. This isn't a
12 facility that's going to be in
13 operation except during peak times.
14 Once it's built you don't have
15 construction traffic, you don't have
16 the associated issues that come with
17 that.

18 Furthermore, there will be a
19 number of mediating factors put into
20 place to reduce those things,
21 including traffic signals, temporary
22 traffic signals. There'll be a
23 watering of any gravel roads to keep
24 dust down. All of this is in due
25 course, it's good business practice,

1 we always exercise it and we'll do no
2 less here.

3 The notion that the plant can
4 operate 11 hours a day every day is
5 just false. It can't. It will be
6 permitted in such a way as to only
7 allow operation during peak periods,
8 and anybody that represents that it
9 can operate 11 hours a day is just
10 making a misrepresentation and a
11 distortion.

12 With that all said, I would
13 like to turn it over again to Mr.
14 Chris Rogers with Sega to talk about
15 some of the -- some of the other
16 issues that were raised.

17 MR. ROGERS: Thank you. I
18 wanted to respond to a couple of
19 comments made by Mr. Epstein and
20 Judge Collins concerning why not the
21 other sites.

22 There's certainly nothing
23 hidden there about Greenwood. In
24 fact, we invited everyone to come up
25 to Greenwood and indeed a number of

1 folks did. Greenwood is not in a
2 growth area like this, and the idea,
3 as I mentioned before in the
4 presentation, is to site these
5 facilities as close to where the load
6 is growing.

7 Greenwood also is limited in
8 the gas capacity that serves it, the
9 transmission lines that serve it, and
10 as we showed you on the map, this
11 site is unique in that you have
12 electric transmission lines on top of
13 high pressure gas lines.

14 These -- by high pressure, I
15 want you to understand. These
16 aren't gas lines that serve anybody
17 in this community. These are
18 interstate gas lines, some of which
19 operate at close to 1,000 pounds per
20 square inch and their sole purpose is
21 to transport gas long distances, and
22 power plants are one of the primary
23 uses for those.

24 And so you have here an
25 intersection between the electric

1 lines and the gas lines and that is
2 the best place for the plant.

3 So why not Greenwood?

4 Electric transmission won't support
5 it. We're talking about major
6 electric transmission enhancements to
7 the grid, that's very expensive,
8 you're building bigger lines through
9 highly -- or excuse me, dense
10 residential areas. You have to
11 spend a lot of money and do a lot of
12 that work and you need a new gas
13 line.

14 You'd have some of the same
15 constraints at Pleasant Hill -- the
16 Pleasant Hill site. Now I'm not
17 referring to the area's project site
18 that's owned by Calpine, I'm
19 referring to the Ralph M. Green
20 Station in downtown Pleasant Hill --
21 is landlocked. There is not room for
22 these three units, period. There's
23 nothing we can do about that.

24 You could tear down
25 everything that's there, including an

1 existing perfectly good running
2 peaking unit, and there still would
3 not be sufficient 40 acres of useful
4 land like we have here.

5 There was also the
6 suggestion that there would be
7 natural gas storage on the site, and
8 that is just unsupported by the
9 facts. We will have a fuel gas
10 conditioning apparatus that controls
11 the temperature of the gas and it
12 will control the presssure and it
13 will filter the gas to make sure that
14 nothing comes out of the pipeline
15 that would harm the plant.

16 There is no storage. No
17 storage tank, no storage structure,
18 and if you wanted to make a
19 comparison, the smaller pipelines
20 that come to our plant and the gas
21 lines that are on the plant site are
22 just a pittance compared to what's
23 running under the ground right now
24 through Shaffer Estates.

25 I would also like to comment

1 on the type of trees that are
2 selected. You have before this body
3 an application that suggests certain
4 species. Those are, obviously,
5 subject to your approval, change. The
6 staff -- the recommendation from your
7 reviewing engineer was that those
8 were fine.

9 If there's some discussion
10 on that point that the staff or the
11 engineer would like to have those
12 changed, we're certainly amenable to
13 working on that and improving that
14 to whatever's found to be suitable.

15 The last point I want to
16 cover real quick -- very quickly has
17 to do with what was stated about the
18 Missouri Public Service Commission.
19 I was for three years the Manager of
20 the generating facility section of
21 the electric department of the Public
22 Service Commission, and I can speak
23 exactly to what they do. I did that
24 for the Calloway and Wolf Creek
25 cases. We looked at Kansas City

1 Power & Light, we looked at a number
2 of units and I had the pleasure of
3 being in -- setting foot in every
4 generating station regulated by the
5 State of Missouri in a three-year
6 period. I know exactly what they
7 look at and what they do.

8 It was said that it would
9 not be reviewed. It will not be
10 reviewed in advance, but Aquila will
11 be held to account for every penny
12 that's spent on this project and the
13 prudence of that before it's allowed
14 to go into rates. So it's somewhat
15 disingenuous to say that there's no
16 PSC review here. They will be
17 scrutinized by the PSC.

18 With that, I'll give it back
19 to you.

20 MR. THOMSON: Thank you.
21 One other issue that was raised was
22 this notion of net export by Missouri
23 utility. That simply is not true in
24 the case of Aquila. It may be true
25 in other company cases, but it's not

1 here. We are, in fact, a purchaser
2 of electric power.

3 And it's misleading to
4 suggest that this power that would be
5 produced here is to be shipped
6 elsewhere because we need to produce
7 power to sell in other states or
8 something to that effect. That's
9 just not the fact.

10 We are actually a purchaser,
11 not a net exporter of power, and on
12 that point I'd like briefly for Mr.
13 Andy Korte with the company to come
14 forward to address that and some
15 related issues and I think then we'll
16 be concluding.

17 MR. WUCHER: Your 15 minutes
18 is up. We started at 9:00, it's --

19 THE CHAIRMAN: Sir, they
20 have the floor.

21 MR. KORTE: I failed to be
22 sworn in.

23 (Mr. Andrew Korte was duly
24 sworn to testify by The Court
25 Reporter.)

1 MR. KORTE: Andrew Korte,
2 K-o-r-t-e, 10700 East 350 Highway,
3 Kansas City, Missouri. Vice
4 President Energy Resources.

5 As just stated, Aquila --
6 the vast majority -- Mr. Nixon, I'd
7 like to clarify a few misstatements
8 that you made regarding in Mr.
9 Kind's statements. Aquila is not, as
10 was just mentioned, a large exporter
11 of power, that's primarily done by
12 KCPL in Ameron nuclear and coal
13 fleets, that Mr. Kind's statements
14 are taken out of context as they
15 represent the data of the State of
16 Missouri and not necessarily that of
17 Aquila.

18 Regarding the power supply
19 issue, just to clarify again. Aquila
20 has conducted over a two-year period,
21 in 2001 first and in 2003, a request
22 for proposal process where we went
23 out and solicited replacement power
24 supply for our 2005 power need.

25 In that regard, Mr. Kind and

1 the Missouri Public Service
2 Commission have been kept apprised
3 and I can say that Aquila does have
4 the real need. As Mr. Keefe points
5 out, we will be losing a 500 megawatt
6 contract and do absolutely need
7 replacement power.

8 And with that I thank you.

9 MR. THOMSON: Clearly we're
10 out of time. So in conclusion, we
11 didn't pick this site just to pick
12 this site, we went through an
13 exhaustive, very sophisticated
14 professional analysis, a number of
15 consultants that are experts in the
16 field, and concluded that this is the
17 best site, not just because it's the
18 lowest cost site, but because of a
19 number of reasons as we've
20 articulated here.

21 And we did exhaustive
22 studies and your own consultant,
23 Bucher, Willis, basically concluded
24 that we had met the County zoning
25 requirements with the one exception

1 on the 75 foot height, which we've
2 asked for the variance.

3 So we feel very strongly
4 that this is a proposal that this
5 Board should recommend for approval
6 to the BZA and we appreciate your
7 consideration and the commitment you
8 made to the citizens.

9 THE CHAIRMAN: Thank you, Mr.
10 Thomson. The next step will be
11 comments and additional information
12 from Darrell and Scott Michie.
13 Darrell, do you have any additional
14 comments?

15 MR. WILSON: I have no
16 additional. Do you want Scott to
17 comment on his report?

18 THE CHAIRMAN: Okay. Scott,
19 do you want to do some follow up?

20 MR. MICHIE: As your
21 consultant planner, our
22 recommendation had to do with the
23 distinction between the Special Use
24 Permit on the one hand and the
25 zoning application on the other hand.

1 The Special Use Permit is in
2 effect a site planning process. You
3 look at whether the application being
4 submitted fits that site, and the
5 application for zoning amendment on
6 the other hand is more of a big
7 picture, a long-range planning
8 question that has to be posed.

9 You know, we concur with
10 your staff and their finding that
11 the applicant could submit a Special
12 Use Permit application, but in going
13 through the application that was at
14 hand, our finding was that it does
15 pose bigger long-range planning
16 questions that really are more
17 appropriately dealt with as a Land
18 Use Planning And Zoning application.

19 So our finding was that
20 because this site is in both the
21 County's, quote, unquote, urban
22 service area that your County plan
23 designates as a place for the City
24 of Harrisonville to grow and to
25 provide cost effective services and

1 is also in the City of Harrisonville's
2 future annexation area, that this is
3 a site where The Planning Board
4 needs to look at these longer term
5 big picture land use questions in
6 the context of a future zoning
7 change, not a Special Use Permit.

8 So it is our finding that it
9 would be appropriate for the Planning
10 Board to require that if this
11 application is to go forward for a
12 gas peaking plant, that it be done
13 in the context of a light industrial
14 zoning application.

15 THE CHAIRMAN: Does anyone
16 have any questions of Scott?

17 (No response.)

18 THE CHAIRMAN: Okay. Thank
19 you, everyone. That closes the
20 portion of the evening for both
21 sides to put forth their best foot.
22 Staff has given us their version of
23 what their thoughts are, and so that
24 part of the evening is finished.

25 We will now begin the part

1 where The Planning Board will,
2 hopefully, visit and have some
3 questions of the folks here this
4 evening and then, hopefully, there'll
5 be a motion and a second and we can
6 vote on this.

7 So does anybody have any
8 questions? We'll begin with Mr.
9 Shelton.

10 MR. SHELTON: I'd like to
11 ask a couple of questions. Would
12 that be all right? Mr. Thomson, I'm
13 going to direct some questions to
14 you folks and you or you can pick
15 out whoever you want to have answer
16 them.

17 MR. THOMSON: Fine.

18 MR. SHELTON: Okay. The most
19 significant thing that you put forth
20 this evening for me was your comment
21 as it relates to the fact that you
22 are willing to go through this
23 process, but may not have to, and I
24 was wondering if somebody could flesh
25 that out or explain that for me.

1 UNIDENTIFIED MAN: Excuse
2 me, sir. I was wondering if you
3 could use the microphone so we can
4 all hear what you were saying? I
5 don't --

6 MR. THOMSON: I'll repeat the
7 question. The Chairman's question to
8 me was to flesh out, if we could,
9 the statement I made regarding the
10 fact that it's our position that we
11 did not have to submit to this
12 process, but we voluntarily chose to
13 and if we could further explain that.

14 It, admittedly, is a
15 sensitive subject because we don't
16 want to be perceived as not taking
17 into consideration the concerns of
18 this Board or of you folks in the
19 public. That's not what we're here
20 for. We're not here to steamroll
21 anybody, we're not here to take that
22 approach, and we don't want it to be
23 perceived that way.

24 The fact of the matter is it
25 was our firm's legal conclusion --

1 and we've represented Aquila for a
2 number of years and have a great
3 deal of experience in this, that this
4 process to which we are submitting
5 is, in fact, not a required process
6 because Aquila is a certificated
7 utility by the Public Service
8 Commission.

9 We have a certificate of
10 public need and necessity, and what
11 that basically means in a nutshell to
12 everybody in this room is that the
13 utility company has the ability, the
14 right to go out and place its
15 facilities, whether those be lines
16 through easements, whether those be
17 coal powered plants or whether they
18 be, as in this case, a much less
19 intrusive smaller gas powered peaking
20 plant, we have the right to place
21 those where appropriate because of
22 the certificate that's been issued.

23 And furthermore, we not only
24 have that right, we have an
25 obligation set forth to do so in a

1 manner that's prudent, that abides by
2 the laws and is -- is consistent with
3 all the rules and regs that govern
4 us from state law, federal law and
5 so forth.

6 We submitted ourselves to
7 this process because we wanted to be
8 transparent about what it is we're
9 doing, we wanted the folks in this
10 room and the folks in the City and
11 County to know what we were doing
12 and have input and have an
13 opportunity to be heard.

14 It's just that simple, and
15 so, to reiterate, it's not a process
16 that we had to go through, we chose
17 to go through it and we're happy to
18 go through it because we think it
19 was the right thing to do. But in
20 the end, it was something we could
21 have avoided had we chose to because
22 of the higher powers, if you will,
23 that we operate under as a
24 State-regulated utility.

25 Does that answer your

1 question?

2 MR. SHELTON: Yes, it does.

3 THE CHAIRMAN: Could somebody
4 address the lifespan of what you're
5 proposing to construct there?

6 MR. KEEFE: It's hard to say
7 exactly how long a generating unit
8 will run. We expect that the
9 lifespan of this plant will probably
10 be anywhere from 20 to 30 years, and
11 it all depends on new technology, it
12 all depends on a lot of different
13 things. But generally speaking, our
14 Greenwood facility was built in the
15 late seventies and they're still in
16 service.

17 Does that answer that
18 question?

19 THE CHAIRMAN: Yes, it does.
20 Thank you. While you're there, how
21 are you all funding this construction?

22 MR. KEEFE: This
23 construction will be funded
24 internally. As you know, we have
25 sold a lot of assets, Aquila has

1 sold a lot of the assets overseas
2 and we have liquidity to fund this
3 project.

4 Does that answer your
5 question?

6 THE CHAIRMAN: Yes. I was
7 wondering if it was done from
8 internal cash flow or were you --

9 MR. KEEFE: Internal cash.

10 THE CHAIRMAN: -- going to
11 do it with bonding or --

12 MR. KEEFE: Internal cash.

13 THE CHAIRMAN: Okay. Very
14 good. Somebody mentioned a cost of
15 133 million. Is that --

16 MR. KEEFE: That's in the
17 ballpark. I like to say 140 million
18 because I'm held to budget, and I'd
19 hate to say 133 and it comes in 134,
20 I'm in trouble.

21 THE CHAIRMAN: So 140 --

22 MR. KEEFE: So about -- 140

23 --

24 THE CHAIRMAN: -- if it
25 comes in at 133, you're all right.

1 MR. KEEFE: Right.

2 THE CHAIRMAN: What is
3 option B and option C as it relates
4 to this being option A? Where is
5 option B? What is option B?

6 MR. KEEFE: Well, we -- many
7 power -- power plants is a
8 complicated structure. We have to
9 file an integrated resource plan with
10 the Public Service Commission, and
11 these things look out years and
12 years and years. The easy way out
13 is to buy purchased power. That
14 particular -- we've done that and we
15 are a -- we do buy a lot of
16 purchased power.

17 We own about -- oh, we
18 probably operate about 60 percent of
19 our own generation and we purchase
20 about 40 percent, somewhere around
21 that area. We could probably go
22 look at more purchased power. It's
23 something that wouldn't be prudent in
24 cost, and we would be criticized by
25 the Public Service Commission on

1 anything that's a higher cost than
2 the least cost option, of course.

3 THE CHAIRMAN: Any questions?
4 Debra?

5 MS. BURTON: I have one for
6 Mr. Epstein.

7 THE CHAIRMAN: Mr. Epstein.

8 MR. EPSTEIN: Yes, Ma'am?

9 MS. BURTON: I understand
10 that 280 members of your group are
11 concerned about devaluation of their
12 property and I think that's a
13 legitimate concern, but what I'm
14 wanting to know is do you have
15 anything to substantiate that? Do
16 you have any input from an appraisal
17 or something?

18 MR. EPSTEIN: Based on my
19 conversations with the Steering
20 Committee, understand that I haven't
21 visited with all 280 people, but
22 those people communicate with kind of
23 the Steering Committee, who then get
24 with another group who gets with me.

25 No, I have not taken the

1 time to find out what whether each
2 and every one of these people has
3 hired an independent appraiser to
4 come in and evaluate whether or not
5 the -- this will have a negative
6 impact. Obviously what the
7 appraisers refer to something like
8 this as external obsolescence. And
9 what an appraiser would tell you is
10 when you have an external
11 obsolescence that is some type of a
12 negative impact outside your home,
13 something other than ordinary wear
14 and tear or quality of construction
15 or something like that.

16 Now, we haven't hired an
17 appraiser, haven't gone to those
18 lengths yet, but having dealt with
19 enough of these types of -- you
20 know, this type of facility or this
21 type of intensity of use without
22 what we would call step-downs on it,
23 and I'm sure you as a County --
24 County Zoning Board understand that
25 generally speaking what you would do

1 -- I know this goes beyond the
2 question, but I want to give you a
3 thorough answer -- is if you let an
4 industrial area, you would of course
5 buffer that probably with an intense
6 commercial, like a C-2, to a
7 neighborhood commercial and then
8 eventually down to multifamily
9 housing, duplex and single-family.

10 It's rare, in my land
11 planning experience, that you would
12 put an industrial use immediately
13 adjacent to an R-1 use, and in our
14 opinion, of course, in the property
15 owners' opinions, without going into
16 Law 101, any real estate owner, any
17 Missouri homeowner, according to the
18 courts, can testify as an expert on
19 their own property value.

20 So without hiring an expert,
21 I can bring any one of the property
22 owners into a court of law and swear
23 them in and they're considered by
24 the courts an expert on their
25 property value, and if they testify

1 that they are certain that this type
2 of a facility is going to have a
3 negative impact, the courts would
4 recognize it.

5 But the short answer would
6 be, no, I haven't hired an appraiser
7 to do an evaluation of Mr. Gabriel's
8 property or his father's property to
9 determine whether or not there is
10 like a paired sales analysis, whether
11 somebody pays less immediately next
12 to one of these facilities.

13 MS. BURTON: Thank you.

14 THE CHAIRMAN: Thank you, Mr.
15 Epstein.

16 MR. THOMSON: Excuse me, Mr.
17 Chairman. I failed to submit to you
18 these as an exhibit and I think it
19 would probably be appropriate for the
20 members of The Board. These are
21 simply duplicates of the slides that
22 we showed you, and those are
23 multiple copies.

24 They also go to answer the
25 question about surrounding property

1 values. There's a number of
2 examples here of a facility every
3 similar to this and even more
4 intrusive facilities that have a
5 large amount of residential
6 development, both there present
7 beforehand and also developed
8 afterwards, and we're confident it
9 does not impact property values in
10 the way it's been represented.

11 THE CHAIRMAN: Mr. Epstein,
12 do you want to follow up?

13 MR. EPSTEIN: If I might be
14 permitted one brief response.
15 Two-fold.

16 According to Cass County's
17 Comprehensive Plan under separation
18 of land uses -- and this is your Comp
19 Plan, this is Harrisonville's, on
20 page 30 it says, "One of the most
21 basic factors affecting the use of a
22 given parcel of land is the use of
23 adjoining parcels."

24 Then it says, "This is due
25 to the fact that the use of land has

1 an impact that goes beyond the
2 boundary of the land being used.
3 Economists refer to this impact as
4 land use externality." And it just
5 goes on to talk about the impacts
6 that has on other property.

7 So without having reviewed
8 this particular page, what I told you
9 I would still contend is accurate and
10 I was called upon by one of the --
11 one of the members of our group who
12 just told me that she has spoken
13 with a real estate appraiser recently
14 who had done an evaluation of her
15 property and done a fee simple
16 appraisal, but when she asked them to
17 give an opinion of what the negative
18 impact would be, I believe what he
19 said was, I wouldn't even hazard or
20 venture a guess what kind of damage
21 that's going to do.

22 Is that accurate? Okay.

23 So I knew somebody had
24 talked to appraisers, but out of the
25 280, I haven't spoke with all of

1 them. So hopefully between your Comp
2 Plan and --

3 Ma'am, what was your name
4 again, please?

5 MS. MARTIN: Sharon Martin.

6 MR. EPSTEIN: Sharon Martin,
7 her testimony is that her appraiser
8 believes there will be negative
9 impact on their property values.
10 Thank you.

11 THE CHAIRMAN: Thank you, Mr.
12 Epstein.

13 MR. HOFF: I have a
14 question. A question for Mr.
15 Thomson.

16 MR. THOMSON: I'm getting my
17 exercise.

18 MR. HOFF: I understand this
19 is going to be just a peak plant.

20 MR. THOMSON: Correct.

21 MR. HOFF: And a peak
22 plant, how are you going to raise
23 nearly \$2 million in taxes a year.
24 I've been figuring it up in my head
25 here and it's just either short or a

1 little more than \$2 million in taxes.

2 MR. THOMSON: And I can't
3 comment on what the tax obligation
4 is, I don't know exactly, but I can
5 assure you that whatever the tax
6 obligation is, we'll be obligated to
7 meet it, and it won't be met by
8 simply the production off of this
9 plant. It will be met by the entire
10 operations of the utility in their
11 entire certificated area.

12 You heard Mr. Keefe just
13 testify that the company has the
14 cash to build this facility at
15 approximately \$140 million. I can
16 assure you that there's no instance
17 that I'm aware of where the company
18 has not met a tax obligation.

19 MR. HOFF: What I'm getting
20 at is will there be a big increase in
21 the rates?

22 MR. THOMSON: As you heard
23 Mr. Keefe testify, I think the
24 converse is true. If we do not build
25 this plant, it is more likely to

1 cause an increase in rates because
2 we will have to resort to other
3 options available to us that are not
4 as cost effective, and anytime we
5 have to resort to those options, we
6 then have to pass those costs on to
7 the consumer.

8 And that would be, as Mr.
9 Keefe testified, in the form of
10 purchased power from other utility
11 providers which comes as a much
12 higher cost than producing it
13 ourselves.

14 MR. HOFF: Okay. This two
15 million, won't that be passed on to
16 the public?

17 MR. THOMSON: I think it's
18 fair to say that all of the
19 operations of every utility are
20 ultimately passed on to the
21 consumers. As you probably know,
22 you may well hold them, utility
23 stocks are high dividend providers,
24 they're solid investments from that
25 perspective, they return kind of a

1 level consistent return, but you
2 understand, we're regulated and we're
3 regulated and we're regulated as to
4 the amount of profit we can make.

5 I mean, people need to
6 understand that we are not this --
7 the average Joe Blow private company
8 out here seeking to build an
9 industrial facility. We're seeking
10 to build a utility plant and a very
11 unintrusive one at that.

12 And comparisons to other
13 industrial uses are just not fair.
14 It's not an apple to apple comparison
15 to compare us to a -- you know, a
16 Ford Motor plant or just some other
17 manufacturing facility.

18 And Mr. Keefe makes another
19 good point. When we purchase power
20 from other providers, those purchases
21 aren't taxed and so there's no
22 public benefit from a tax standpoint,
23 whereas the electric utility here
24 would be.

25 You know, and again, I can't

1 stress enough, \$130,000 for every ten
2 million is an immediate investment in
3 this community, and you do the math.
4 What's 130,000 times -- what did we
5 say it's going to cost to build, 140
6 million roughly. I mean, that's --
7 that's a lot of money. That's well
8 over a million and a half dollars
9 instantly into this community, and
10 that's shared largely by the school
11 districts.

12 MR. KEEFE: It depends on
13 how much infrastructure we have built
14 by January 1st.

15 Just to clarify that, CWIP,
16 the construction work in progress, it
17 depends January 1st of how much
18 infrastructure we have in the ground
19 January 1st. So if things go well,
20 the plant goes well, let's say we
21 have \$100 million in the ground.
22 Then the CWIP tax would kick in that
23 much.

24 I doubt if we could get 140
25 million in the ground by January 1st,

1 but --

2 MR. THOMSON: I stand
3 corrected. He's right, and that
4 goes back to what I said earlier,
5 which is those in favor of getting
6 this process along, because the
7 sooner we can commence construction
8 the more we can construct in the
9 calendar year '04, which is the more
10 that can be taxed under this one
11 special tax I'm talking about which
12 we refer to as CWIP, construction
13 work in progress.

14 So I apologize for the
15 misstatement. It's only on what's in
16 place as of January 1, which under
17 the circumstances could be quite
18 substantial.

19 THE CHAIRMAN: Thank you.
20 Mr. Epstein.

21 Any other questions of you
22 folks?

23 (No response.)

24 THE CHAIRMAN: Okay. The
25 Chair would recognize a motion for

1 approval of the SUP as presented or
2 a denial.

3 MR. SHELTON: I make a
4 motion we accept or vote on denial
5 or approval.

6 THE CHAIRMAN: We need to
7 have that motion as either be
8 approval or a denial.

9 MR. SHELTON: Yeah, a motion
10 for approval or denial.

11 THE CHAIRMAN: One or the
12 other. Your motion has to be one or
13 the other.

14 MR. SHELTON: Motion for
15 approval.

16 THE CHAIRMAN: Okay.
17 There's a motion on the floor for
18 the approval of application 2589 for
19 the Special Use Permit. A second?

20 MS. BURTON: I'll second it.

21 THE CHAIRMAN: Okay. The
22 second is by Debra. All right.

23 MR. MICHIE: And state the
24 basis for the motion, the basis for
25 which -- the finding.

1 THE CHAIRMAN: As it relates
2 to the criteria of VIII C. Okay.

3 The motion has been made to
4 approve application 2589 as it meets
5 the -- the criteria outlined in
6 Section VIII C of the code. Is that
7 good enough?

8 MR. MICHIE: (Nods head up
9 and down.)

10 THE CHAIRMAN: Any additional
11 discussion?

12 (No response.)

13 THE CHAIRMAN: Darrell, do
14 you want to call for the vote?

15 MR. WILSON: Lynn Stark.

16 MS. STARK: No.

17 MR. WILSON: Robert Hardin.

18 THE CHAIRMAN: I'm voting no
19 as it relates to the -- I do not
20 feel like it meets the criteria for
21 our future zoning -- future growth
22 of the County and the zoning that
23 we're going to have to set forth and
24 the site and location as it relates
25 to adjacent properties.

1 MR. WILSON: Bill Shelton.

2 MR. SHELTON: No.

3 MR. WILSON: Orris Hoff.

4 MR. HOFF: No.

5 MR. WILSON: David Clickner.

6 MR. CLICKNER: No.

7 MR. WILSON: Debra Burton.

8 MS. BURTON: No.

9 THE CHAIRMAN: What's the

10 vote?

11 MR. WILSON: Six and 0, no.

12 THE CHAIRMAN: Okay. The

13 motion has been voted down zero to

14 six.

15 THE CHAIRMAN: This is being

16 forwarded to the BZA and the BZA will

17 put forth an announcement of a time

18 and date for the meeting to review

19 our recommendation to the BZA.

20 That concludes the meeting.

21 (Whereupon, the hearing was

22 adjourned at 9:45 p.m.)

C-E-R-T-I-F-I-C-A-T-E

STATE OF MISSOURI)
) ss:
COUNTY OF JACKSON)

I, ROBERT D. STULZ, Certified Shorthand Reporter and Notary Public, with offices at 31 East 106th Street, Kansas City, Missouri, do hereby certify that I was present at the taking of the proceedings as set forth in the caption sheet hereof; that I then and there took down in shorthand the proceedings had thereat and that the foregoing pages constitute a true and correct transcript of such notes made by me at said time and place.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal, this day of
2004.

ROBERT D. STULZ
Certified Shorthand Reporter
Notary Public in and for the
State of Missouri