

05-1761-CD  
Billy J. Haywood al vs Machipongo  
Land & Coal Co.

05-1761-CD  
Billy J Haywood al vs Machipongo Land

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

BILLY JOE HAYWOOD and :  
BILLIE LYNN HAYWOOD, Husband :  
and Wife, : No. 05- 1761 -CD  
Plaintiffs :  
:  
vs. :  
:  
MACHIPONGO LAND and COAL :  
COMPANY, INC., :  
Defendants :  
:

CASE NUMBER: 05- -CD

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT IN EJECTMENT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

2ccShff  
**FILED**  
11/10/05 Atty  
NOV 10 2005 Gearhart  
William A. Shaw Atty  
Prothonotary/Clerk of Courts 85.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

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MACHIPONGO LAND and COAL	:	
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NOTICE TO DEFEND

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**COMPLAINT IN EJECTMENT**

AND NOW, comes Plaintiffs, by and through their attorney, R. Denning Gearhart, Esq., who aver as follows:

1. The Plaintiffs are Billy Joe Haywood and Billie Lynn Haywood, adult individuals, residing at 501 Linda Street, Houtzdale, PA 16651. They are the owners of a certain parcel of real estate situate in the Borough of Houtzdale, Clearfield County, Pennsylvania, which is more particularly described in Clearfield County Deeds & Records Book Vol. 1850, Page 325, but also includes further property to the South and East of property described in the above named Deed, to wit, property described as:

"Beginning at a point being the Northernmost point of the above named deeded property; thence North 59 degrees 30 minutes East, 149.46 feet to a point along the line separating Woodward Township and Houtzdale Borough; thence South 12 degrees 49 minutes 35 seconds East along said line, 228.18 feet to a point; thence South 58 degrees 05 minutes 10 seconds West to a point approximately 150 feet to a point that can be found by extending the Southernmost line of the property described in the above referenced Deed Southeasterly to the Houtzdale line of Rails to Trails; thence Northwesterly North 30 degrees 30 minutes West to the Southernmost point of the property described in the above Deed."

2. The Defendant is Machipongo Land and Coal Company, Inc., a corporation, whose principle place of business is P. O. Box 295, 8324 Janesville Pike, Smithmill, PA 16680.

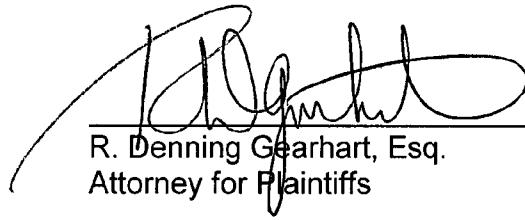
3. The above described property adjoining the property that is the subject of a Deed from Edna Holden, a/k/a Edna G. Holden, widow, to Billy Joe Haywood and Billie Lynn Haywood, has been considered the property of the Plaintiffs since they were deeded the property in 1997, and as such, they have treated it as their property, notoriously, openly, exclusively and continuously adverse to any other claims. Specifically, they have maintained the garage and sheds that are located on that property. Similarly, their predecessors in title have maintained and controlled said property for a period since they purchased the property on April 14 1943, thus giving them ownership of the property for a period in excess of twenty (20) years.

4. That by letter dated September 26, 2005, sent to the Plaintiffs by the Defendant, Defendant advised the Plaintiffs to remove all personal property from this parcel of ground. A copy of that letter with the attachment is attached hereto as Exhibit "A".

5. That this letter was sent following the Defendant's decision to have the property surveyed by three different surveyors with each of the surveys showing a different division/description of property.

WHEREFORE, Plaintiffs prays your Honorable Court to enjoin the Defendant from trespassing over the lands of the Plaintiffs, including that section which is the subject of this lawsuit, and to find that this land is solely owned by the Plaintiffs.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Plaintiffs

AFFIDAVIT

R. DENNING GEARHART, being duly sworn according to law, deposes and says that he is the agent of the Plaintiffs, BILLY JOE HAYWOOD and BILLIE LYNN HAYWOOD, that said Plaintiffs cannot make the verification to the foregoing Complaint because they were not present on the day and date this Complaint was filed, and further, that the Plaintiffs would not be available until after the day of the filing of this Complaint, and that the facts set forth in the foregoing Complaint are based on information provided to Counsel by the Plaintiffs and based partially upon personal knowledge of the Plaintiffs' Attorney. However, the Plaintiffs verified this information to R. DENNING GEARHART, their counsel, fully aware of the penalties of false statements under 18 Pa. C.S.A., section 4904, relating to unsworn falsification to authorities.



R. Denning Gearhart

Sworn to and subscribed  
before me this 9 day  
of November, 2005.

Kathleen A. Ricotta

Notary Public

Commonwealth of Pennsylvania  
NOTARIAL SEAL  
KATHLEEN A. RICOTTA, Notary Public  
Clearfield Boro., County of Clearfield  
My Commission Expires June 15, 2009

# Machipongo Land and Coal Company, Inc.

P.O. Box 295 8324 Janesville Pike  
Smithmill, PA 16680  
Phone: 814-942-0204  
Email: [stingray1944@atlanticbb.net](mailto:stingray1944@atlanticbb.net)

September 26, 2005

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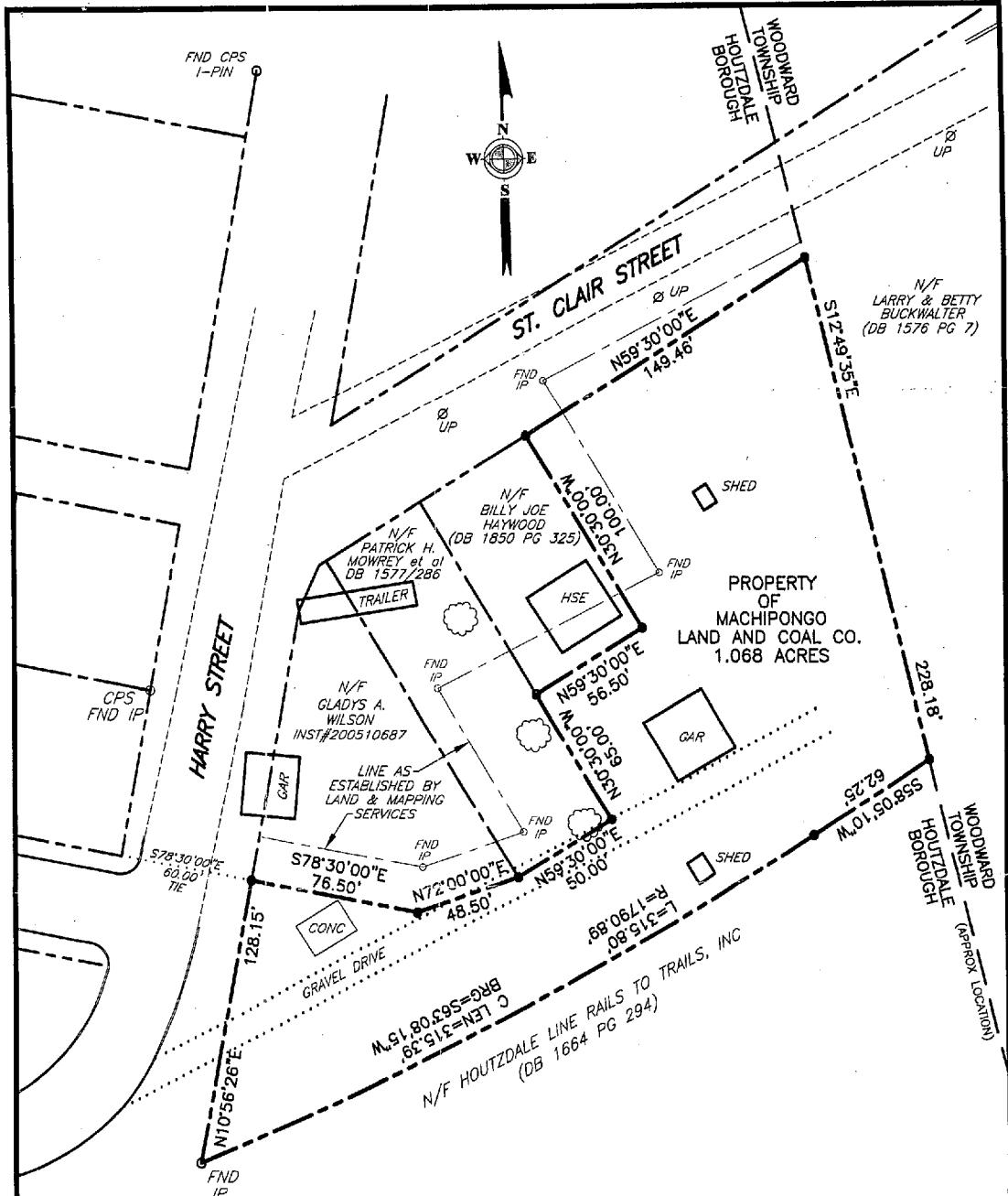
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Yours,  


Ray Pursley II.  
President of Machipongo Land & Coal Company

Enclosed: Survey map

EXHIBIT "A"



**NOTE:**

PROPERTY IS CURRENTLY OWNED BY MACHIPONGO LAND & COAL CO. AS RECORDED IN CAMBRIA COUNTY DEED BOOK VOLUME 426 AT PAGE 481 AND IS INDEXED AS TAX PARCEL NO. M14-387-5.

## LEGEND

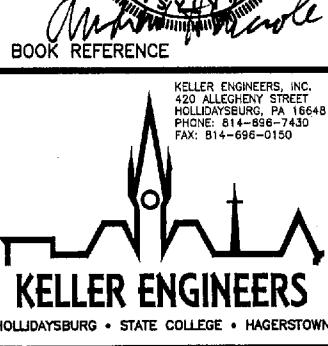
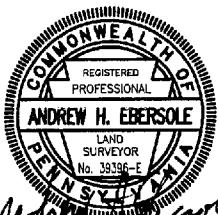
----- PROPERTY LINE  
----- RIGHT-OF-WAY LINE  
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----- EDGE OF GRAVEL

REVISED: 09/20/05—DEED BOOK REFERENCE

PROJECT NO.: 1943-1  
FILE NAME: 1943-1SD.DWG  
DATE: 09-06-05  
PAGE NO.: 1  
SCALE: 1"=60'  
60' 0' 60'  


**DRAFT SHOWING  
PROPERTY  
OF  
MACHIPONGO  
LAND AND COAL CO.**

HOOTZDALE BOROUGH, CLEARFIELD COUNTY  
PENNSYLVANIA



IN THE COURT OF COMMON PLEAS OF  
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BILLY JOE HAYWOOD AND  
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and Wife, Plaintiffs

vs.

MACHIPONGO LAND and COAL  
COMPANY, INC., Defendants

COMPLAINT IN EJECTMENT

FILED

NOV 10 2005

William A. Shaw  
Prothonotary/Clerk of Courts

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Service # 1 of 1 Services

Sheriff Docket # **100998**

BILLY JOE HAYWOOD and BILLIE LYNN HAYWOOD

Case # 05-1761-CD

vs.

MACHIPONGO LAND and COAL COMPANY, INC.

TYPE OF SERVICE COMPLAINT IN EJECTMENT

**SHERIFF RETURNS**

NOW December 15, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN COMPLAINT IN EJECTMENT "NOT FOUND" AS TO MACHIPONGO LAND AND COAL COMPANY INC., DEFENDANT. ADDRESS GIVEN APPEARS "EMPTY"..

SERVED BY: /

**Return Costs**

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	GEARHART	5802	10.00
SHERIFF HAWKINS	GEARHART	5802	68.69

Sworn to Before me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2005  
\_\_\_\_\_  
\_\_\_\_\_

  
Chester A. Hawkins  
Sheriff

**FILED**  
0/9/05 cm  
DEC 16 2005

William A. Shaw  
Prothonotary

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I hereby certify this to be a true  
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NOV 10 2005

Attest.

*William D. Blair*  
Prothonotary/  
Clerk of Courts

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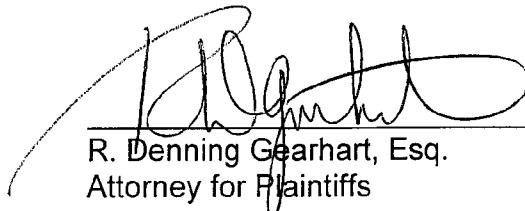
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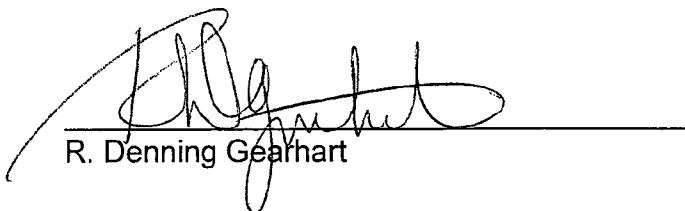
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R. Denning Gearhart

Sworn to and subscribed  
before me this 9 day  
of November, 2005.

Kathleen A. Ricotta

Notary Public

Commonwealth of Pennsylvania

NOTARIAL SEAL

KATHLEEN A. RICOTTA, Notary Public  
Clearfield Boro., County of Clearfield  
My Commission Expires June 15, 2009

# Machipongo Land and Coal Company, Inc.

P.O. Box 295 8324 Janesville Pike  
Smithmill, PA 16680  
Phone: 814-942-0204  
Email: [stingray1944@atlanticbb.net](mailto:stingray1944@atlanticbb.net)

September 26, 2005

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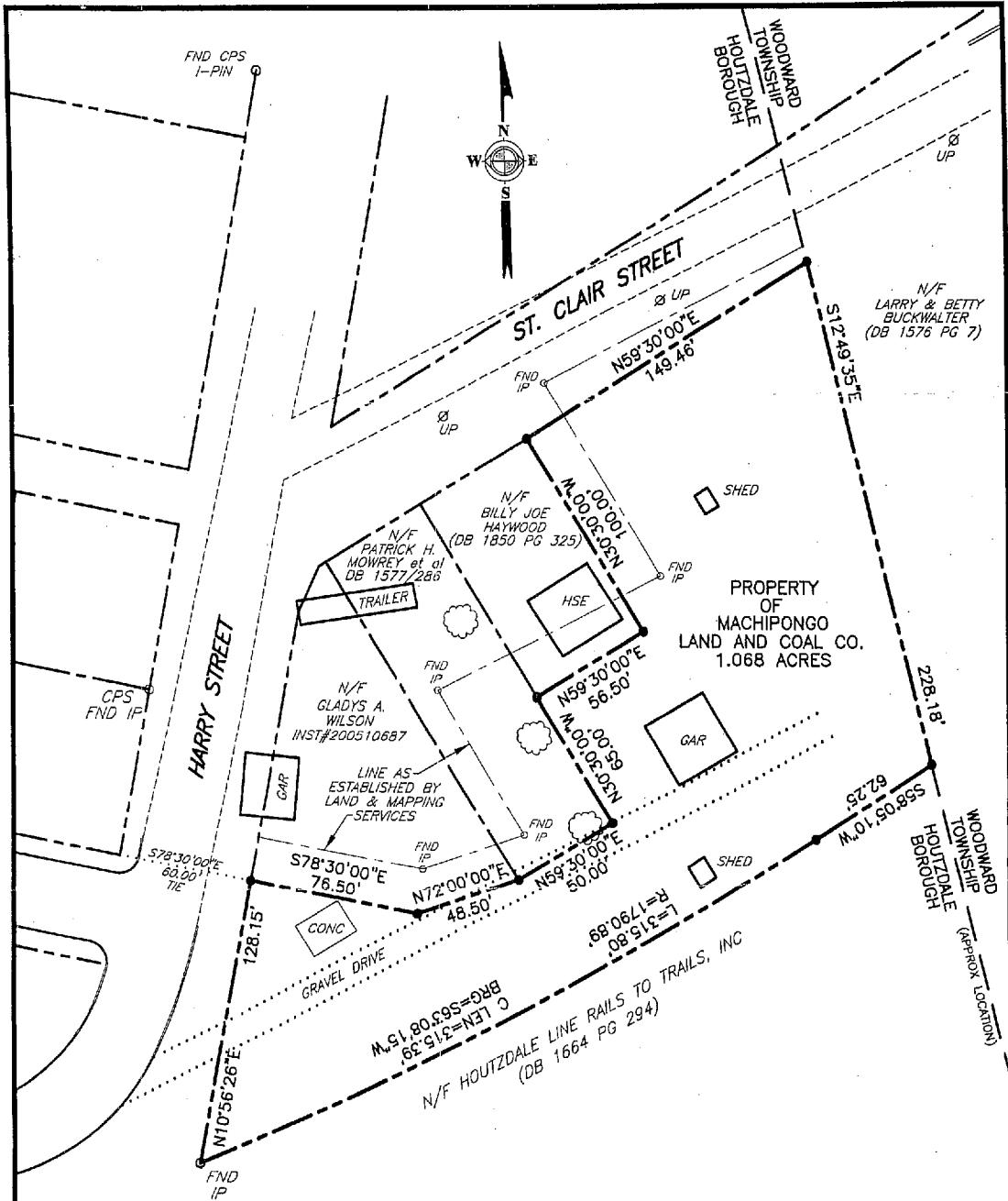
Yours,



Ray Pursley II.  
President of Machipongo Land & Coal Company

Enclosed: Survey map

EXHIBIT "A"



NOTE:

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LEGEND

- PROPERTY LINE
- RIGHT-OF-WAY LINE
- EDGE OF MACADAM
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REVISED: 09/20/05—DEED BOOK REFERENCE

PROJECT NO.: 1943-1

FILE NAME: 1943-1SD.DWG

DATE: 09-06-05

PAGE NO.: 1

SCALE: 1"=60'

60' 0' 60'

**DRAFT SHOWING PROPERTY**

OF  
MACHIPONGO  
LAND AND CO. CO.

HOUTZDALE BOROUGH, CLEARFIELD COUNTY  
PENNSYLVANIA



KELLER ENGINEERS, INC.  
420 ALLEGHENY STREET  
HOLLIDAYSBURG, PA 16448  
PHONE: 814-696-7430  
FAX: 814-696-0150

**KELLER ENGINEERS**  
HOLLIDAYSBURG • STATE COLLEGE • HAGERSTOWN

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NOV 10 2005

Attest.

*Wesley D. Brown*  
Prothonotary/  
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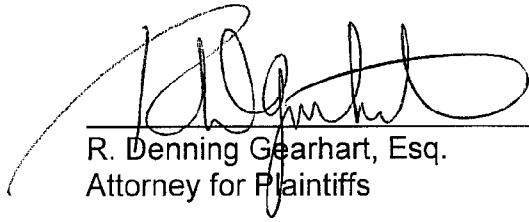
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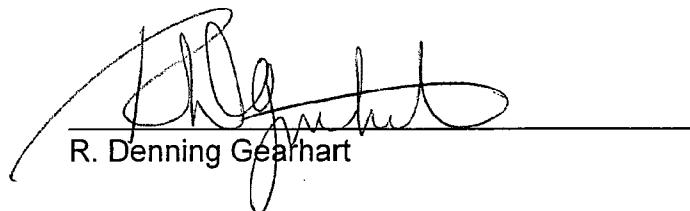
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Kathleen A. Ricotta

Notary Public

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KATHLEEN A. RICOTTA, Notary Public  
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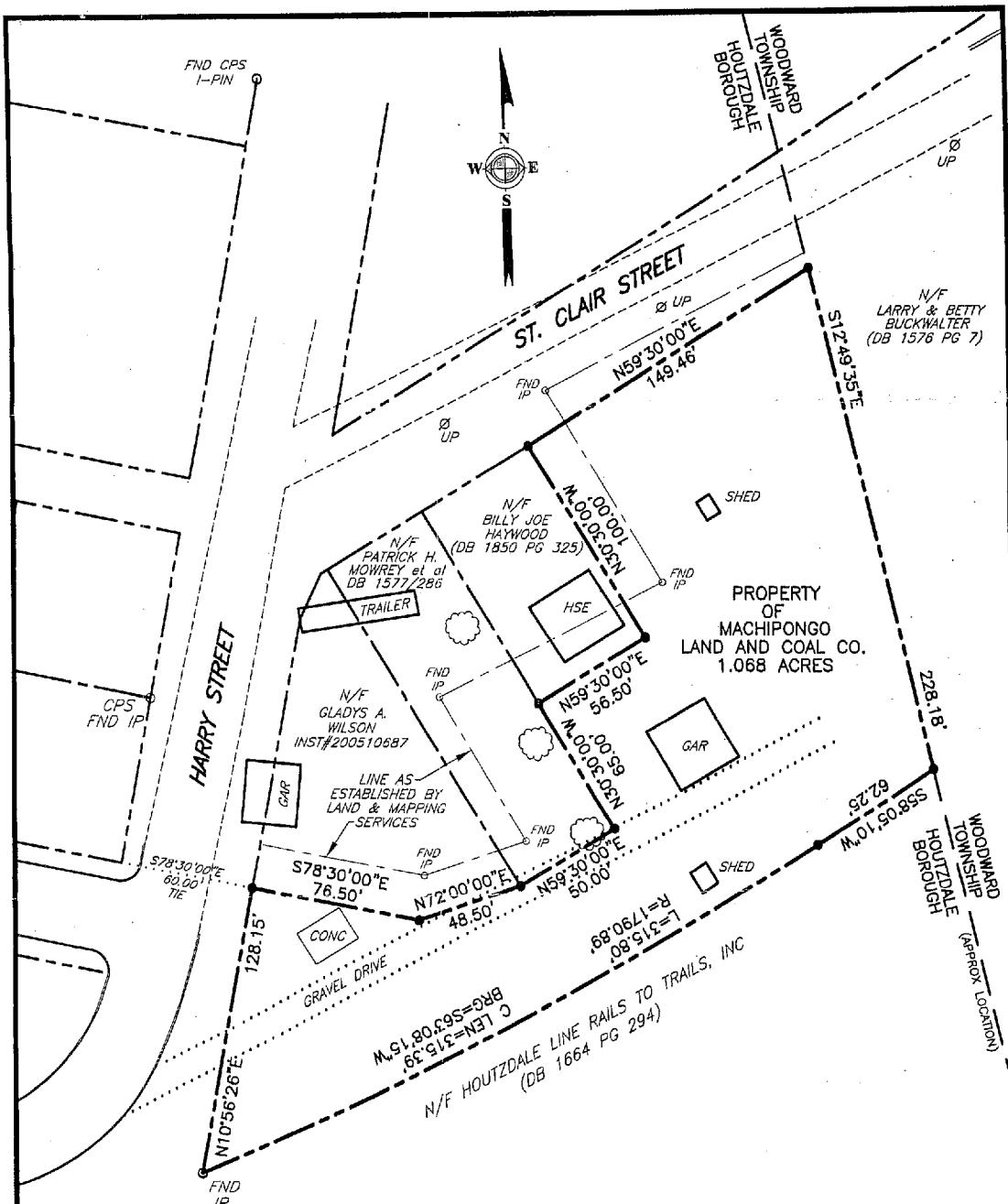
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SCALE: 1"=60'		
60'	0'	60'

## **DRAFT SHOWING PROPERTY**

OF  
MACHIPONGO  
LAND AND COAL CO.

A circular official stamp. The outer ring contains the words "COMMONWEALTH OF" at the top and "PENNSYLVANIA" at the bottom. The center of the stamp contains the following text:

REGISTERED  
PROFESSIONAL  
ANDREW H. EBERSOLE  
LAND  
SURVEYOR  
No. 39396-E

NSY  
Mohammed

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

BILLY JOE HAYWOOD and :  
BILLIE LYNN HAYWOOD, Husband :  
and Wife, :  
Plaintiffs :  
vs. : No. 05-1761-CD  
MACHIPONGO LAND and COAL :  
COMPANY, INC., :  
Defendant :  
:

CASE NUMBER: No. 05-1761-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: PRAECIPE TO DISCONTINUE ACTION

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQ.  
Supreme Court I. D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

FILED 3cc&3Cert. of  
01/10/06 AM Disc. to Atty  
FEB 23 2006  
(LM) Copy to CIA  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

BILLY JOE HAYWOOD and  
BILLIE LYNN HAYWOOD, Husband  
and Wife,  
Plaintiffs  
vs.  
MACHIPONGO LAND and COAL  
COMPANY, INC.,  
Defendants

No. 05-1761-CD

PRAECIPE TO DISCONTINUE ACTION

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please discontinue the above captioned action.

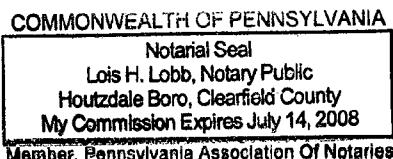
Billy Joe Haywood  
BILLY JOE HAYWOOD, Plaintiff

Billie Lynn Haywood  
BILLIE LYNN HAYWOOD, Plaintiff

Sworn to and subscribed before

me this 20th Day of February,  
2006.

Lois H. Lobb  
Notary Public



Leave over margin

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 05-1761-CD

BILLY JOE HAYWOOD and  
BILLIE LYNN HAYWOOD, Husband  
and Wife, Plaintiffs  
vs.  
MACHIPONGO LAND and COAL  
COMPANY, INC., Defendant

PRAECLPTE TO DISCONTINUE ACTION

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

COPIED/RECORDED/PDF/2006/02/23/2006/PA

**FILED**  
**FEB 23 2006**

William A. Shaw,  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

 COPY

**Billy Joe Haywood  
Billie Lynn Haywood**

vs. **No. 2005-01761-CD**  
**Machipongo Land and Coal Company**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on February 23, 2006, marked:

Discontinued

Record costs in the sum of \$85.00 have been paid in full by R. Denning Gearhart, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of February A.D. 2006.



\_\_\_\_\_  
William A. Shaw, Prothonotary