

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

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

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

2 ccshff
FILED
0/11/10 Bill Any
NOV 10 2005 Gearhart
William A. Shaw
Prothonotary/Clerk of Courts
85.00

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

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

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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.,

Defendant

:
:
:
:
:
:
:
:
:
:
:

No. 05- -CD

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.

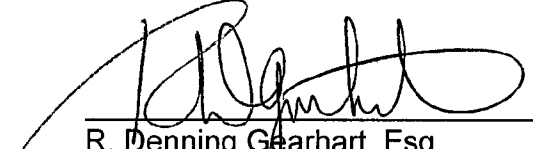
3. The above described property adjoining the property that is the subject of a Deed from Edna Holden, a/k/a Edna G. Holden, widow, to Billy Joe Haywood and Billie Lynn Haywood, has been considered the property of the Plaintiffs since they were deeded the property in 1997, and as such, they have treated 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.

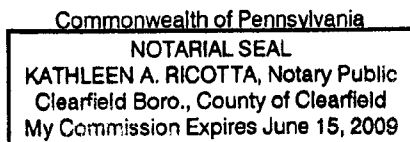

R. Denning Gearhart

Sworn to and subscribed

before me this 9 day
of November, 2005.


Kathleen A. Ricotta

Notary Public



Machipongo Land and Coal Company, Inc.

P.O. Box 295 8324 Janesville Pike

Smithmill, PA 16680

Phone: 814-942-0204

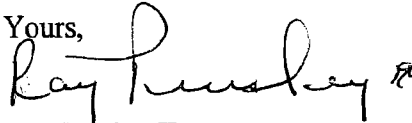
Email: stingray1944@atlanticbb.net

September 26, 2005

Dear Mr. Haywood,

Enclosed you will find a copy of the most recent survey of Machipongo land. As you can see your house is not encroaching on Machipongo's property. On the advice of the company's attorney and as President of Machipongo Land & Coal Company, I am giving you until November 11, 2005 to remove all personal property from Machipongo's land. Additionally, you should remove the items identified as the garage and the two sheds on the survey. As of November 11, 2005 you will no longer be allowed to use the entrance onto Machipongo land. I or my agent will be blocking the entrance from further use as of November 12, 2005.

Yours,

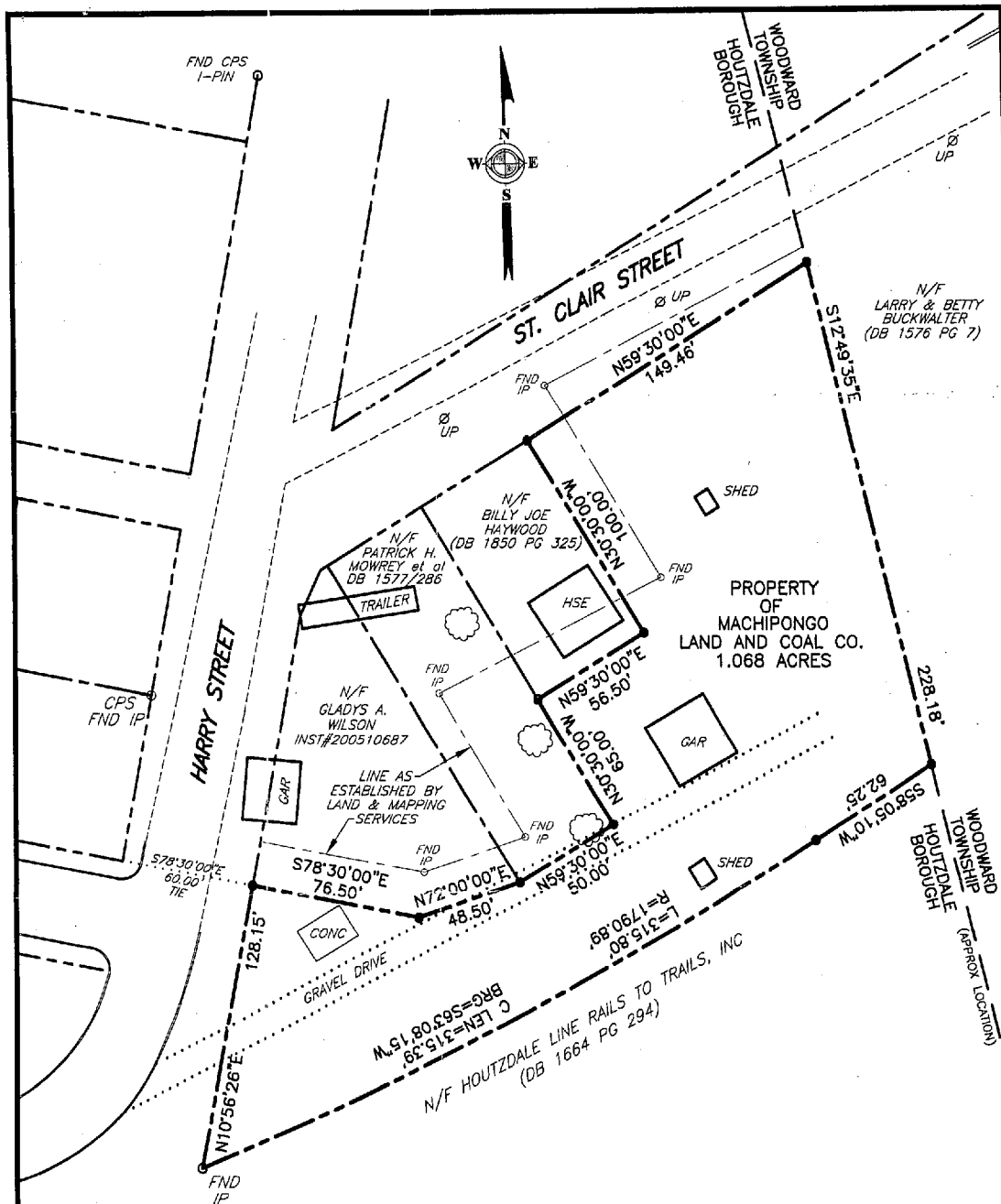


Ray Pursley II.

President of Machipongo Land & Coal Company

Enclosed: Survey map

EXHIBIT "A"



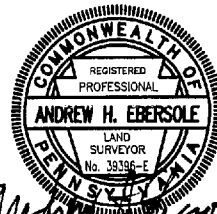
NOTE:

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
 EDGE OF MACADAM
 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.**

 HOUTZDALE BOROUGH, CLEARFIELD COUNTY
 PENNSYLVANIA


KELLER ENGINEERS
 HOLLIDAYSBURG • STATE COLLEGE • HAGERSTOWN

KELLER ENGINEERS, INC.
 420 ALLEGHENY STREET
 HOLLIDAYSBURG, PA 16648
 PHONE: 814-896-7430
 FAX: 814-696-0150

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

COMPLAINT IN EJECTMENT

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

COMMERCIAL PRINTING CO., CLEARFIELD, PA

FILED

NOV 10 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

_____ Day of _____ 2005

So Answers,


Chester A. Hawkins
Sheriff

FILED
0/9:05 LM
DEC 16 2005

William A. Shaw
Prothonotary

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

CASE NUMBER: 05- -CD

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT IN EJECTMENT

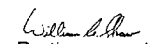
FILED ON BEHALF OF: Plaintiffs

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

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

NOV 10 2005

Attest.


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.,

Defendant

No. 05-

-CD

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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.,

Defendant

:
:
:
:
:
:
:
:
:
:
:

No. 05- -CD

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.



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.

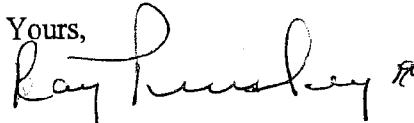
P.O. Box 295 8324 Janesville Pike
Smithmill, PA 16680
Phone: 814-942-0204
Email: stingray1944@atlanticbb.net

September 26, 2005

Dear Mr. Haywood,

Enclosed you will find a copy of the most recent survey of Machipongo land. As you can see your house is not encroaching on Machipongo's property. On the advice of the company's attorney and as President of Machipongo Land & Coal Company, I am giving you until November 11, 2005 to remove all personal property from Machipongo's land. Additionally, you should remove the items identified as the garage and the two sheds on the survey. As of November 11, 2005 you will no longer be allowed to use the entrance onto Machipongo land. I or my agent will be blocking the entrance from further use as of November 12, 2005.

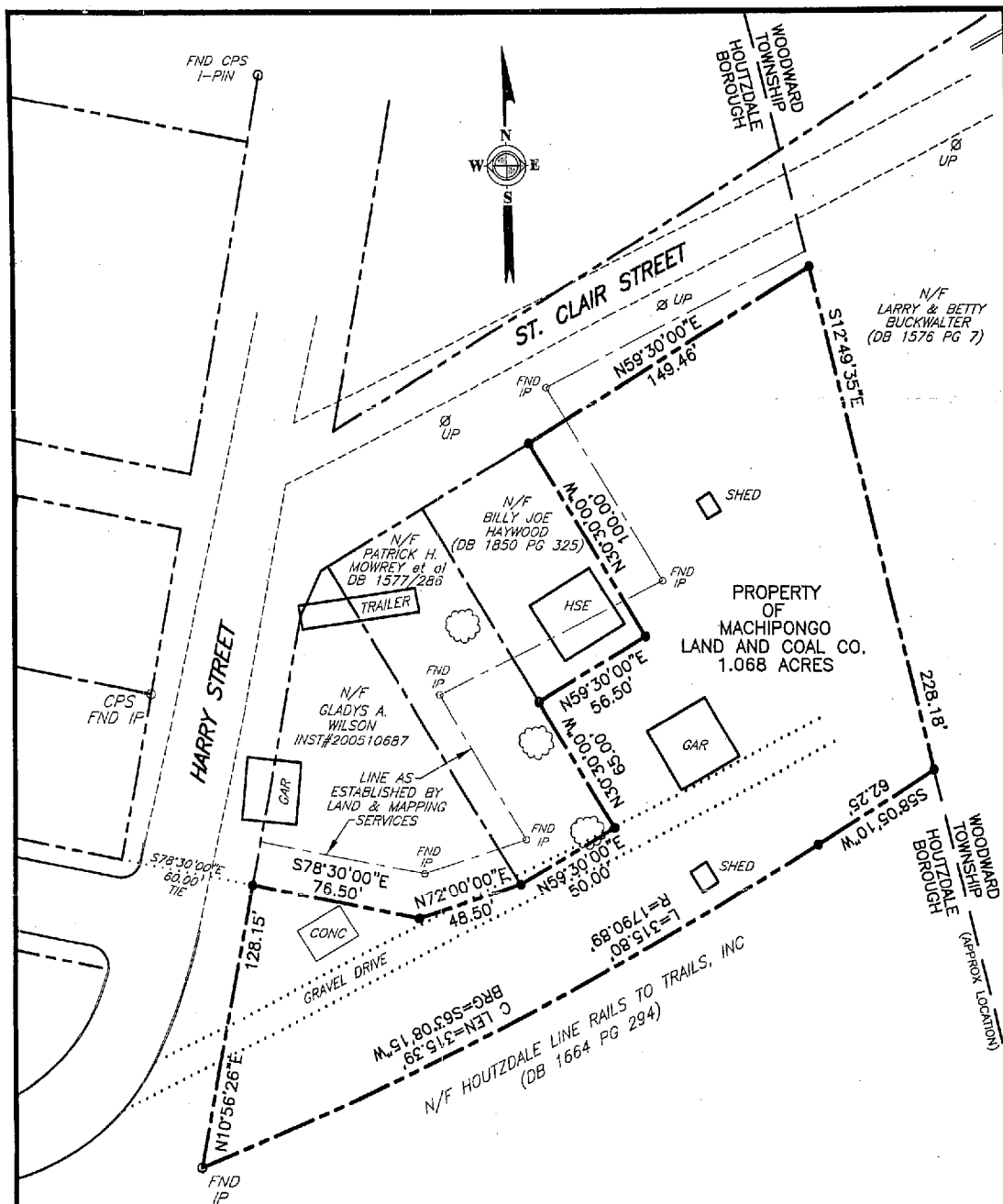
Yours,



Ray Pursley II.
President of Machipongo Land & Coal Company

Enclosed: Survey map

EXHIBIT "A"



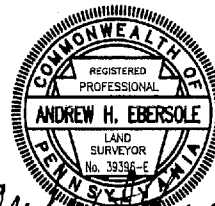
NOTE:

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
 EDGE OF MACADAM
 EDGE OF GRAVEL

REVISED: 09/20/05-DEED BOOK REFERENCE

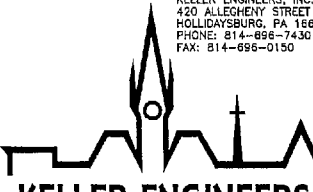


PROJECT NO.:	1943-1
FILE NAME:	1943-1SD.DWG
DATE:	09-06-05
PAGE NO.:	1
SCALE: 1"=60'	
60'	0' 60'

**DRAFT SHOWING
PROPERTY**

 OF
**MACHIPONGO
LAND AND COAL CO.**

 HOUTZDALE BOROUGH, CLEARFIELD COUNTY
 PENNSYLVANIA


KELLER ENGINEERS
 HOLLIDAYSBURG • STATE COLLEGE • HAGERSTOWN

KELLER ENGINEERS, INC.
 420 ALLEGHENY STREET
 HOLLIDAYSBURG, PA 16648
 PHONE: 814-896-7430
 FAX: 814-896-0150

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 :

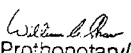
CASE NUMBER: 05- -CD
TYPE OF CASE: Civil
TYPE OF PLEADING: COMPLAINT IN EJECTMENT
FILED ON BEHALF OF: Plaintiffs

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

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

NOV 10 2005

Attest.


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.,

Defendant

No. 05-

-CD

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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.,

Defendant

:
:
:
:
:
:
:
:
:
:
:
:

No. 05- -CD

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.

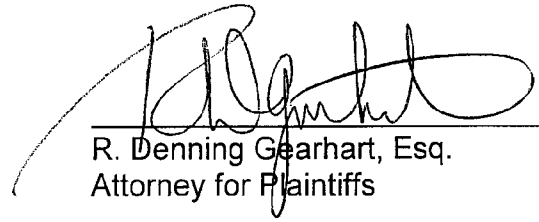
3. The above described property adjoining the property that is the subject of a Deed from Edna Holden, a/k/a Edna G. Holden, widow, to Billy Joe Haywood and Billie Lynn Haywood, has been considered the property of the Plaintiffs since they were deeded the property in 1997, and as such, they have treated 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,

A handwritten signature in black ink, appearing to read "R. Denning Gearhart", is written over a horizontal line. The signature is stylized with a large initial "R" and a long, sweeping underline that extends to the left.

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.



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

September 26, 2005

Dear Mr. Haywood,

Enclosed you will find a copy of the most recent survey of Machipongo land. As you can see your house is not encroaching on Machipongo's property. On the advice of the company's attorney and as President of Machipongo Land & Coal Company, I am giving you until November 11, 2005 to remove all personal property from Machipongo's land. Additionally, you should remove the items identified as the garage and the two sheds on the survey. As of November 11, 2005 you will no longer be allowed to use the entrance onto Machipongo land. I or my agent will be blocking the entrance from further use as of November 12, 2005.

Yours,

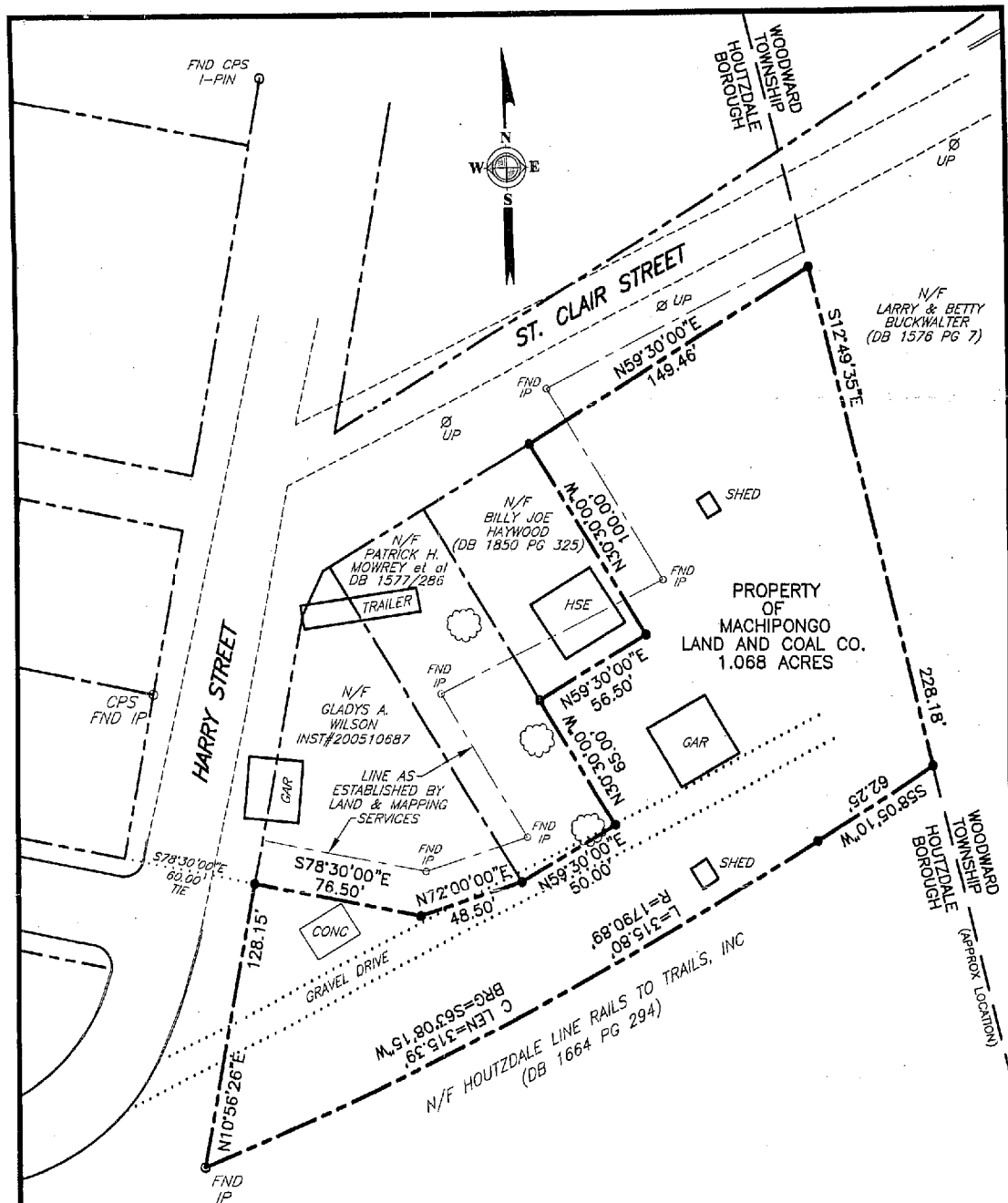


Ray Pursley II.

President of Machipongo Land & Coal Company

Enclosed: Survey map

EXHIBIT "A"



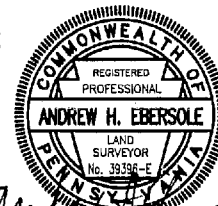
NOTE:

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
 - - - - - EDGE OF MACADAM
 - - - - - 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.

HOUTZDALE BOROUGH, CLEARFIELD COUNTY
PENNSYLVANIA

KELLER ENGINEERS, INC.
420 ALLEGHENY STREET
HOLLIDAYSBURG, PA 15648
PHONE: 814-698-7430
FAX: 814-698-0150

KELLER ENGINEERS
HOLLIDAYSBURG • STATE COLLEGE • HAGERSTOWN

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.,

Defendant

:
:
:
:
: No. 05-1761-CD
:
:
:
:

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 & 3 Cert. of
10:46 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

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Lois H. Lobb, Notary Public
Houtzdale Boro, Clearfield County
My Commission Expires July 14, 2008
Member, Pennsylvania Association Of Notaries

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

PRAECIPE TO DISCONTINUE ACTION

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


CONFIDENTIAL PRINTING CO., CLEARFIELD, 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