

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Power Company)	
d/b/a AmerenIP)	
and Ameren Illinois Transmission Company)	
)	06-0706
Petition for a Certificate of Public Convenience and)	
Necessity, pursuant to Section 8-406 of the Illinois)	
Public Utilities Act, to construct, operate and)	
maintain new 138,000 volt electric lines in La Salle)	
County, Illinois.)	

**INITIAL BRIEF OF
PROponents OF TOURISM AND
ECONOMIC DEVELOPMENT ALONG I-80
(PROTED 80)**

and

**SAVE OUR LITTLE VERMILION ENVIRONMENT
(SOLVE)**

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I. INTRODUCTION

Ameren’s witnesses repeatedly admonish that “moving a route from one location to another based solely on it being controversial to the property owners along the route is not a valid criterion for relocation. . . .”¹ The record evidence shows, however, this is exactly how Ameren arrived at its proposed transmission route from La Salle to Wedron. The record evidence also shows that justification for Ameren’s new proposed route was post hoc and ad hoc. Ameren frequently put forth inconsistent positions on the two routes at issue in this docket and, in at least one case, put forth a witness who could not even testify to whether his pre-filed testimony was true and accurate, thus raising a serious credibility gap.

The role of the Commission in this docket is to determine based on the available credible evidence the route that will have the least negative impact. For La Salle to Wedron, that route is PROTED 80 Alt 1. PROTED 80 and SOLVE each respectfully request that the Commission establish PROTED 80 Alt 1 as the route for the La Salle to Wedron transmission line requested by Ameren in this docket.

II. BACKGROUND

On November 1, 2006, Ameren initiated this docket, seeking approval for two 138 kV transmission lines routes, in order to create a transmission loop, *i.e.*, a redundant transmission route between La Salle and Ottawa. The study area is best conveyed in the Public Hearing Map Exhibit 1, the map that Ameren provided in the hearing room. In very broad terms, the location of a new substation in Wedron, Illinois makes this “loop” look more like a triangle. The base of the triangle is formed by La Salle on the West and Ottawa on the east, connected by Interstate 80 with the Village of North Utica (“Utica”) roughly half way between them. Significantly, most of La Salle, as well as the relevant Ameren substation, is south of Interstate 80 and west of

¹ *E.g.*, Ameren Ex. 9.0 at line 368; Ameren Ex. 8.0 at lines 254-57.

Interstate 39. Wedron, which is almost due north (and slightly east) of Ottawa, forms the third corner of this triangle. The two 138 kV lines are referred to as the La Salle to Wedron route and the Ottawa to Wedron route. While the proposals for the Ottawa to Wedron line are all relatively direct lines between Ottawa and Wedron, the proposals for the La Salle to Wedron route take various paths to move north and east from La Salle to Wedron.

In order to establish those routes, Ameren sought relief from this Commission under Section 8-406 of the Public Utility Act (the “PUA”). Section 8-406(b) states in pertinent part:

No public utility shall begin the construction of any new plant, equipment, property or facility . . . unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. * * * The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

On all of these issues, Ameren bears the burden of proof as the Petitioner in this docket.

With regard to both routes in this docket – the La Salle to Wedron route and the Ottawa to Wedron route -- no party contested whether that the proposed construction is necessary or whether Ameren has the technical capacity to construct the line. Staff raised questions about Ameren’s means of financing the routes. But the only truly contested issue in this docket is whether the routes Ameren proposed are the “least-cost means” in the sense that they have the least impact on the “study area” (the area impacted or potentially impacted by the line) and those who live and work there. Of the two primary routes Ameren originally proposed, Ameren has already agreed to abandon its proposed Ottawa to Wedron line and support an alternative route

advocated by the City of Ottawa and a group called the IL 71 Resisters. *See* Stipulation filed January 2, 2008. Thus, Ameren has already conceded arguments against the IL 71 Resisters' Ottawa to Wedron line. That leaves the Commission to evaluate Ameren's position on the La Salle to Wedron route.

Any transmission line will have some negative impact on the area it traverses. As the Commission has stated in prior Orders, the issue here is what route will have the least negative impact on that study area. *See, e.g.*, Order in ICC Docket No. ICC 06-0179 at 16-17.

Technically, there are six routes at issue between La Salle and Wedron, three alternatives from Ameren and three alternatives from PROTED 80. In practicality, the testimony focused on Ameren's primary route and PROTED 80 Alt 1.

Ameren's approach to route selection was flawed both in process and in substance. Staff stated that it was impossible to determine how Ameren selected its routes and hard to say how exhaustive Ameren's study of the area was. Staff Ex. 1.0 at lines 202-03, 222-24. The record evidence shows that PROTED 80 Alt 1, advocated by PROTED 80 and SOLVE, has fewer negative impacts on the study area than Ameren's so-called primary route, which is opposed not only by PROTED 80 and SOLVE, but also by the Village of Utica.² Before analyzing the impact of those routes, it is important to understand how Ameren and PROTED 80 arrived at their respective routes and what those routes are.

a. Ameren's Routing Procedure Contradicted Its Own Admonitions

In the June of 2005, Ameren assembled a team to evaluate and reach internal consensus on potential routes between La Salle and Wedron. Tr. at 277, 292. The team was headed up by Ameren witness Keith Emmons (Tr. at 400) and included Roger Nelson, Roger Cruse and Jerry

² Although this route was also opposed by Ottawa, Ottawa dropped its opposition solely to settle with Ameren on the Ottawa to Wedron Route. *See* Stipulation at ¶ 9.

Murbarger. Tr. at 614. Over the course of several months, that group put together three route alternatives. As indicated by PROTED 80 Cross Ex. 4, all three of Ameren's original alternatives exited La Salle to the northwest and differed mostly in regard to how they headed east toward Wedron. The southernmost route started east about a mile north of Interstate 80, but, shortly thereafter, came back to the north side of Interstate 80 and traveled east along the northern side of the Interstate 80 to just outside of Ottawa before going north on East 15th Road and then turning east on 35th Road to go into Wedron. Ameren's middle route again left La Salle to the northwest before turning east at 33rd Road and traveling east to East 22nd Road before heading north to the Wedron substation. Ameren's northernmost alternative came due west out of the La Salle substation, traveled north along East 3rd Road before it headed east on 33rd Road to East 9th road where it went north to 35th road and then went due east to Wedron. Of these routes, Ameren's routing team determined the middle route, the one that traveled east exclusively on 33rd Road as its primary route (Tr. at 295-303; 674) and the one running along Interstate 80 as its third choice. PROTED 80 Cross Ex. 4; Tr. at 345, 640-41.

The Ameren team established these three routes in the fall of 2005, and ranked them in order of Ameren's preference at that time. Tr. at 293, 343-44. Ameren used those three routes to initiate discussions with state agencies and Commission staff. Tr. at 293-94. That primary route remained Ameren's primary route until Ameren hosted two public forums at Wallace and Waltham schools on March 29 and 30, 2006. Ameren invited land owners along each of its three proposed routes. Tr. at 345-46. Those land owners did not include anyone from northeast La Salle (because they were not on any proposed route) or anybody from the south side of Interstate 80 (because they were not on any proposed route). *Id.* at 345-46, 348-49. Not coincidentally, the schools where these meetings were held were two of the three schools located

on 33rd Road, the road down which Ameren proposed to run its 138 kV power line from La Salle to Wedron, with each school falling within 200' of the proposed 138 kV line. Tr. at 858.

Although Mr. Emmons testified that this came as a great surprise to Ameren, area residents turned out in large number to oppose the placement of a high voltage power line across the road from three schools. Tr. at 346-47.³ Ameren was overwhelmed at the negative response to its routing proposal. Tr. at 346-47; 383-85.

As a direct result of how controversial the Ameren's initial primary route was to the surrounding property owners along that route (and with no other change in the basis for its routing), Ameren decided to relocate its primary route. Tr. at 347, 384-85. While having to move the route away from 33rd Road (an action which PROTED 80 and SHOCK support) was a direct consequence to Ameren's haphazard approach to route location, this action was also in direct contravention of Ameren's own repeated admonition that moving a route from one location to another based solely on it being controversial to the property owners along the route is not a valid criterion for relocation. Unfortunately, Ameren's basis for changing its route was even more haphazard and less principled than its original routing decision. Perhaps also as a result of the controversy its initial public meetings engendered, Ameren did not hold any more public forums.

Nor did Ameren go to any of the stated alternatives that it had relied upon for months and had presented to the public. Tr. at 296. Instead, Ameren developed an entirely new route – what is now Ameren's primary route -- which took an entirely different path, moving out of the City of La Salle through its northeast before heading to the *south* side of Interstate 80, rather than the north side of that Interstate, thus impacting an entirely different group of land owners and

³ These meetings prompted the formation of intervenor SHOCK (Save the Health of our Community and Kids). Tr. at 698-99.

residents than anything Ameren had proposed publicly. Also, for the first time, Ameren's primary route entered the City of Ottawa. Tr. at 384-85, 572. The first public disclosure of Ameren's current primary route was the November 1, 2006 filing of the Petition in this docket.

Ameren suggests that it worked with groups like SOLVE to address local concerns.⁴ While it is true that SOLVE was allowed to attend two meetings with Ameren, it was clear that Ameren was not there to address SOLVE's concerns. In early June, 2006, three SOLVE members met with Ameren. Ameren showed those SOLVE members a map with a proposed primary route. It was not the current primary route.⁵ The apparent purpose of the meeting was for Ameren's real estate contact, Mr. Nelson, to present a "slight adjustment" that would have brought a now-rejected east route away from some number of trees, but into immediate proximity with a subdivision called Vermilionvue. This route would undoubtedly would have affected the greatest number of residences and it was properly rejected.

The second meeting occurred on June 22, 2006 between Ameren, the City of La Salle and SOLVE. Ameren's view of this meeting was appropriately captured in the minutes of that meeting (*see* SOLVE Schedule 1.2), in which Ameren's spokesman "opened the meeting by making it clear that *Ameren was not holding the meeting to negotiate some compromise on the new line installation*, but is willing to listen to any concerns that have arisen since the announcement was made regarding a shift to a new primary line location." (Emphasis added.)

Even then, the new primary line location was not Ameren's current primary. Rather, it was a proposed route that would have exited the La Salle substation to the east (as opposed to the

⁴ Although Ameren claims (Ameren Ex. 8.0 at lines 422-24) that it "also wanted to be aware of any environmental projects that SOLVE may have planned for the area." SOLVE is not the primary planner of environmental projects in the area. Environmental projects are planned primarily by the Little Vermilion Watershed Planning Committee, which requested a meeting with Ameren that Ameren never responded to. SOLVE Ex. 2.0 at lines 167-73.

⁵ Rather, it was the "Y3 route" reflected on Ameren's Ex. 9.6, which the Administrative Law Judge in this docket briefly took an interest in, before rejecting the route largely on the basis of Ameren's description of the impacts. SOLVE Ex. 2.0 at lines 97-102.

south and east of the substation, where Ameren's primary route now departs). SOLVE and others opposed routes leaving La Salle to the east because of the many homes and businesses it would have impacted as it ran from the substation to the Interstate 39 corridor. SOLVE advised Mr. Nelson that, to minimize any environmental impact, the transmission line route should leave the La Salle substation to the north or slightly northwest (SOLVE Ex. 1.0 at lines 127-32), through Civic Industrial Park, an area north of Ameren's substation designed and zoned specifically for industry. SOLVE Ex. 2.0 at lines 140-47. Ameren said that it would go back to the drawing board and consider whether anything could be done. Even the La Salle officials said they wanted the line to stay away from their growth area. SOLVE Ex. 2.0 at lines 125-28.

Ameren now suggests (Ameren Ex. 8.0 at line 434) that La Salle wanted to avoid a route leaving La Salle to the east to avoid "an area that the City was hoping to annex and anticipating residential development." In fact, in those meetings, the City advocated going north to Interstate 80 then east to avoid going through land that was annexed and in a TIF district that extends from State Route 351 east to Route 178 (East 8th Road). SOLVE Ex. 2.0 at lines 136-39.

While Ameren held discussions with La Salle some of which involved SOLVE, Ameren made no attempt to communicate with landowners elsewhere in northeast La Salle or along the south side of Interstate 80 where it was planning to propose its primary route.

ICC Staff witness Mr. Linkenback correctly criticized Ameren's approach to route selection, and commented that Ameren did not do a detailed and exhaustive study to select the route -- particularly in regard to the various issues such as proximity to residences, schools, parks, waterways, *etc.* or crossing forests versus agricultural land. Ameren's vague and

subjective approach prevented Staff from determining whether Ameren did a thorough or exhaustive study. Staff Ex. 1.0 at lines 226-32.

b. Ameren's Primary Route Creates Significant Issues

On November 1, 2006, Ameren disclosed its new primary route. Probably the most notable attribute of Ameren's primary line is how much of it travels through developed and developing areas. It would be difficult to find a more heavily developed route from La Salle to Wedron. Because Ameren's primary lines travels through so many developing areas, it is a critical shortcoming to Ameren's case that the photomaps on which it appears to rely so heavily were taken In October 2005 (Ameren Ex. 16.0 at line 440) and were thus almost two years old at the time of the hearings in this docket. Time and again, it became apparent during the hearings that these maps left out important details, houses, residential developments, lakes and land formations that are key to the determination of relevant impacts.

Unlike any of its predecessors, Ameren's primary route now leaves the La Salle substation and heads to the southeast to decimate a green corridor and to dangerously compromise an environmentally sensitive segment of the Little Vermilion River valley within the La Salle city limits before moving north to the south side of Interstate 80 where the transmission line will interfere with properties that have been (at least until now) developing uses that are inconsistent with a transmission route. PROTED 80 Ex. 1.0 at lines 333-38. Ameren's primary route travels along Interstate 80 through Utica and into the Ottawa city limits where it will abut new residential developments before its heads north to Wedron.

More specifically, the topography of the Ameren primary route between the La Salle substation and Interstate 39 takes it through steeply wooded ravines, deteriorating railroad beds, through a quarry, close to neighborhood homes and two subdivisions of approximately 100 homes. SOLVE Ex. 1.0 at lines 62-72. Throughout this area, Ameren's primary route would

also traverse some of the deepest and widest portions of the Little Vermilion River Valley. That crossing is further complicated, from both an environmental and engineering standpoint, by the ongoing reclamation of the Illinois Cement Company quarry. Finally, the resulting transmission line crossing will impact a newly formed 18-acre lake and at least one city park, all within the city limits of La Salle.

Along the south side of I-80, the proposed location of Ameren's primary route passes by and through properties that have very high potential for future development. PROTED 80 Ex. 1.0 at lines 92-94, 333-38. This issue has direct relation to the value of these properties, community acceptance, visual impact and the cost estimate prepared by Ameren. PROTED 80 Ex. 1.0 at lines 94-96, 333-44, 398-433.

Continuing on toward Ottawa, Ameren's primary route actually enters Ottawa's city limits and abuts at least one subdivision that already has houses under construction. Tr. at 974-75. It then transits north through agricultural land.

c. PROTED 80 Alt 1 Was Developed As A Reasonable And Less Impact Alternative

In direct response to the problems created by Ameren's newly announced primary route, the group that ultimately became PROTED 80 was formed. PROTED 80 Ex. 1.0 at lines 17-31. PROTED 80 is headed by Dee Bennett, who is, by trade, an engineer with significant experience in routing pipelines (PROTED 80 Ex. 1.0 at lines 47-59) and significant knowledge of the study area, having grown up there and lived there most of his life. PROTED 80 Ex. 1.0 at lines 60-64.

Rather than simply oppose Ameren's route, PROTED 80 investigated the potential of alternative routes, based not on the immediate preferences of PROTED 80, but on a diligent evaluation of the study area. PROTED 80 Ex. 1.0 at lines 23-31, 106-29. Specifically,

Mr. Bennett began his investigation by obtaining aerial photographs of the study area from the U.S. Geological Survey, in order to look at potential routes for getting from La Salle to Wedron. PROTED 80 Ex. 1.0 at lines 114-17.

Based on his review of the photographs and his personal knowledge of the geography and land uses in this area, Mr. Bennett started to develop potential routes, taking into consideration: length, turns, property lines (using the 2005 La Salle County plat book), roads, homes, river crossing locations, existing corridors, future land use potential and known objections. PROTED 80 Ex. 1.0 at lines 119-23. After developing approximately five different routes, Mr. Bennett then went to the field, traveling each of the routes, and observed and evaluated the benefits and shortfalls of all five routes. PROTED 80 Ex. 1.0 at lines 123-26. From this field study, Mr. Bennett identified the three best routes and ranked them. PROTED 80 Ex. 1.0 at line 126. Mr. Bennett then subjected those alternatives to evaluation by the PROTED 80 members. PROTED 80 Ex. 1.0 at lines 126-27. PROTED 80 Alt 1, PROTED 80 Alt 2 and PROTED 80 Alt 3 were the results of that investigation and evaluation. PROTED 80 Ex. 1.0 at lines 127-29.

All three PROTED 80 routes differ from Ameren's primary route mainly insofar as the PROTED 80 routes (consistent with Ameren's two alternative routes) run almost entirely through rural areas with little population density or development. PROTED 80 Ex. 1.0 at lines 130-74; Schedule 1.3. For that reason, PROTED 80 Alt 1 (as well as the alternative PROTED 80 routes) impacts fewer residences and other occupied structures. PROTED 80 Ex. 1.0 at lines 385-93. It also impacts fewer planned residential areas or current or planned commercial areas. PROTED 80 Ex. 1.0 at lines 333-38, 394-97.

PROTED 80 Alt 1 leaves La Salle in a north by northwesterly direction utilizing an abandoned Illinois Central railroad bed for approximately five miles (the same as Ameren's

Alternative 1 for four miles). PROTED 80 Ex. 1.0 at lines 130-34. Subject to three potential turns to avoid impact on what appears to be an inactive restricted landing area, PROTED 80 Alt 1 turns east, runs north of Maze Woods and continues for approximately 18.5 miles then turns north and runs approximately one half of mile to the Wedron substation. PROTED 80 Ex. 1.0 at lines 130-34.

PROTED 80 Alt 1 provides a significant improvement over Ameren's primary route because PROTED 80 Alt 1 is approximately four miles north of the Route 80 corridor, an area which is presently experiencing a high level of development. PROTED 80 Ex. 1.0 at lines 135-36. PROTED 80 Alt 1 minimizes turns and parallels property lines for nearly the entire route. PROTED 80 Ex. 1.0 at lines 136-37. Another significant improvement of PROTED 80 Alt 1 is that, for a significant percentage of its east west segment, it runs the transmission route along the back of the properties rather than the front, thus avoiding homes and higher valued property that normally occur at the front (*i.e.*, the road face) of the properties. PROTED 80 Ex. 1.0 at lines 140-43. Routing the transmission line primarily through agricultural land would also substantially reduce the land acquisition cost below what Ameren would have to spend for the rural commercial, industrial and rural residential land that makes up much of Ameren's primary route, all as evidenced by Ameren's own Real Estate Market Book for La Salle County (PROTED 80 Schedule 1.2). PROTED 80 Ex. 1.0 at lines 149-53.

Closer to La Salle, PROTED 80 Alt 1 is a superior route because it:

- will not affect any homes;
- will not affect any schools;
- will protect the TIF and residential development to the east;
- will protect and minimize impact on the Little Vermilion River Valley; and

- will give Ameren easy access to the lines for installation and maintenance.

PROTED 80 also developed two other alternatives. PROTED 80 Ex. 1.0 at lines 156-74.

The advantages of each over Ameren's primary route are fully documented by the record evidence in this docket. Ameren had conceded that all of PROTED 80's alternatives could potentially be constructed. Ameren Ex. 9.0 at lines 85-86.

III. EVEN UNDER AMEREN'S ROUTE EVALUATION PROTED 80 ALT 1 IS THE SUPERIOR ROUTE

In this docket, the Commission must determine which of the six routes (in practical terms, which of the two) will have the least negative impact on the La Salle/Ottawa/Wedron study area. As the Petitioners, Ameren has the burden of proof. In order to make this evaluation, Ameren identified a set of 12 criteria to evaluate impact. Those criteria are:

- Length of the line
- Difficulty and cost of construction
- Difficulty and cost of operation and maintenance
- Environmental Impacts
- Impacts on historical resources
- Social and land use impacts
- Number of affected landowners and other stakeholders
- Proximity to homes and other structures
- Proximity to existing and planned development
- Community acceptance
- Visual impact
- Presence of existing corridors

PROTED 80 Schedule 1.1 (Ameren’s response to Staff Data Request RDL 1.26). Unfortunately, Ameren did not rank or weight any of these criteria, relying instead on what Mr. Emmons, the head of Ameren’s routing team, characterized as “professional judgments.” Staff witness Ron Linkenback criticized this approach, noting that he could not determine how Ameren arrived at the three routes or whether Ameren had conducted an exhaustive study. Staff Ex. 1.0 at lines 199-232. Nor could Staff determine how Ameren came to the ranking of its three routes. Tr. at 1125-26. While Staff notes that Ameren may not even have limited itself to these criteria (Tr. at 1129-30), Ameren has never identified any other.⁶ Unfortunately, Ameren has used this vague approach to obscure the basis for its routing choice, if there is any reasoned basis at all.

Even using Ameren’s criteria as articulated by Mr. Emmons, the route selected by Ameren as its primary route is not the optimal route. The first shortfall in Ameren’s *process* for establishing the route was ignoring the impact its initial primary route would have on schools and other occupied structures. Ameren then compounded that shortfall by simply moving the route away from the area of controversy without giving those impacted by the new route the same level of input or basing its action on a reasoned or articulated analysis of the relative impacts. The major shortfalls in the *substance* of Ameren’s primary route are the adverse effect that this line will have on the Little Vermilion River valley and the surrounding areas in La Salle and the negative impact on tourism and economic development of the areas in and around the cities of La Salle, Utica and Ottawa.

All of these concerns, however, can be rectified or mitigated by using PROTED 80 Alt 1 (or one of the other PROTED 80 alternatives). How those concerns can be rectified or mitigated can be demonstrated by a comparative analysis of Ameren’s primary route and PROTED 80

⁶ In fact, Mr. Emmons attached to his rebuttal testimony a comparative matrix of the Ameren and PROTED 80 routes using these 12 criteria. See Ameren Ex. 9.3. Based on the testimony explained in this Brief, PROTED 80 disputes Ameren’s matrix. See PROTED 80 Schedule 2.6.

Alt 1 under Ameren's own criteria. A summary of the route that each criteria favors is attached to Mr. Bennett's Rebuttal Testimony as PROTED 80 Schedule 2.6.

a. PROTED 80 Alt 1 And Ameren's Primary Route Are Approximately The Same Length

PROTED 80 Alt 1 and Ameren's primary route are approximately the same length. PROTED 80 measured Ameren's primary route at approximately 23.76 miles and PROTED Alt 1 as slightly longer at 23.88 miles. (PROTED Alt 2 & 3 are both slightly shorter at 23.62 miles.) PROTED 80 Ex. 1.0 at lines 188-91. Ameren's own witness asserted the distances to be 23.9 miles for Ameren's primary route and 24 miles for PROTED 80 Alt 1. Ameren Ex. 9.0 at line 267. The difference in the length of the two proposals is negligible and does not provide an advantage for either route under this criteria.

b. PROTED 80 Alt 1 Will Be Less Difficult And Costly To Construct

PROTED 80 Alt 1 will present fewer engineering challenges to construct. Even putting the cost of these engineering issues aside, PROTED 80 Alt 1 will be significantly cheaper to construct due not only to engineering problems along Ameren's primary route, but also due to the cheaper land prices and line construction costs associated with the rural areas traversed by PROTED 80 Alt 1.

Despite the significant engineering and environmental challenges presented by the crossing of the Little Vermilion River valley from the abandoned railroad corridors on the west, through the Illinois Cement Company quarry and to the Knaff farm on the east, Ameren presented no witness at the hearing who had actually been in the quarry or walked any significant segment of the abandoned rail beds where Ameren proposed to place its line. *E.g.*, Tr. at 237-38, 330-31, 639, 659, and 865-70. Although it impacts both the engineering and the environment, Ameren was largely unaware of the simple fact that there are two rail beds, not one, and

produced no witness who could state from personal knowledge on which rail bed it proposed to place its poles, although the placement of those poles could significantly increase the number of homes within 200' of the line.

By comparison, SOLVE presented the testimony of Dr. Franklin Jasiak,⁷ who has spent the past 15 years with SOLVE studying the specific geological and environmental conditions of the Little Vermilion River valley in and around the Illinois Cement Company quarry. Dr. Jasiak is intimately conversant with the topographical and geological features of this area that he has personally visited countless times. In stark contrast to Ameren's dismissive attitude toward this environmentally sensitive area, SOLVE and the Jasiaks are committed to and conversant with the issues in this area. As explained at the hearings in this matter, Dr. Jasiak and his wife and their fellow SOLVE members actually invested their personal money at great risk to buy the land north of the quarry and to develop Vermilionvue subdivision for the primary purpose of protecting the Little Vermilion River from further devastation by the northward crawl of the Illinois Cement Company quarry. Tr. at 1079-81. The Commission will find no witness more knowledgeable of the issues affecting the geology and environment of this area. Dr. Jasiak provided compelling and knowledgeable testimony about the impact of this route on the Little Vermilion River environment.

As between the witnesses for Ameren and SOLVE, there should be no question about who has a better understanding of the geology, topography and environment in the Little Vermilion River valley.

⁷ To be clear, Dr. Jasiak's title does not indicate any advance degrees in environmental science. Although he has significant biology and chemistry training along with some undergraduate engineering studies (Tr. at 1024), Dr. Jasiak is a retired dentist.

1. The Construction of Ameren's Primary Route Will Present Significant Engineering Challenges

The terrain on Ameren's primary route and PROTED 80 Alt 1 are relatively the same with one important exception. The area through which Ameren's primary line approaches, crosses and exits the Little Vermilion River valley will cause significant engineering and environmental problems. It is clear from the record in this docket that Ameren had given little thought or attention to these problems.

As demonstrated by a Wetlands Inventory Map prepared by the U.S. Department of the Interior (PROTED 80 Schedule 2.5), the segment of the Little Vermilion River valley that the Ameren primary route would cross is some of the deepest area to cross the river. According to that map, the elevation on the west side of the Little Vermilion River Valley at the La Salle Bureau County ("LSBC") railroad right of way is 630' above sea level. (As a reference point, Vermilionvue subdivision at the north end of the quarry is at 633' above sea level. SOLVE Ex. 2.0 at lines 212-23.) Widthwise, the valley at this point is over one mile wide. Tr. at 1010-11. The elevation then drops down to 560' in the ravine of the unnamed stream that runs between the two railroad beds. It then climbs to the second Illinois Central ("IC") railroad right of way at 600' and then drops again to the Little Vermilion River which is approximately 500'. On the east side of the valley (at the Knaff farm) it rises again to 600'. This is an overall drop of 130' and then a rise of 100'.

Even within the quarry, as is demonstrated by SOLVE Schedule 2.1c and 2.1d., Ameren's lines will have to traverse at least one mound made up of fill that has been placed there within the last 4-5 years. Tr. at 1007. Constructing the transmission line through the quarry will absolutely require special construction techniques (such as anchoring in concrete from the height of the hill down to the floor of the quarry) in order to stabilize the soils and the poles within the

reclaimed quarry. PROTED 80 Ex. 2.0 at lines 321-23. The railroad bed that Ameren's primary route uses to approach the quarry from the west has severe ongoing erosion and subsidence, apparently caused by the construction of the lake adjacent to the railroad bed. PROTED 80 Ex. 2.0 at lines 323-26. While Ameren simply assumes that it can engineer the poles in that area, the evidence shows that Ameren has not specifically evaluated the engineering issues in the quarry (Tr. at 335-36) and has no intention of stabilizing the railroad bed. See PROTED 80 Schedule 2.4. No Ameren personnel have been to the quarry since August of 2006 (*id.*) and none of Ameren's witnesses have even been in the quarry. *E.g.*, Tr. at 330-31, 639, and 865-66.

By comparison, SOLVE witness Dr. Franklin Jasiak has spent years studying the topography and environment in and around the quarry and consulting with the quarry's engineer since those areas impact the Little Vermilion River valley that is central to the mission of SOLVE. Tr. at 1006, 1008, 1037. PROTED 80 witness Dee Bennett, a trained engineer, has also personally examined the quarry. PROTED 80 Ex. 2.0 at lines 319-32.

Ameren's approach to the quarry issue can best be described as dismissive and irresponsible to the record in this case. In his rebuttal Mr. Emmons testified about the relative topographies of crossing the Little Vermilion River on Ameren's primary route and PROTED 80 Alt 1. Specifically, Mr. Emmons (Ameren Ex 9.0 at line 432) submitted a map he attached as Ameren Ex. 9.4 and testified under oath that the map represented the current state of the quarry. As PROTED 80 established in the hearings in this matter, the map relied on temporary fill piles that are no longer in the quarry. Tr. at 998-99. Although he sponsored the exhibit, Mr. Emmons admitted that he had never been in the quarry and could not say from personal knowledge what its topography was. Tr. at 339. The map also ignored a more recently created 18-acre lake. The more current and correct map of the quarry was entered into the record as SOLVE Schedule 2.3.

Moreover, to build poles in the quarry, Ameren may very well have to establish its poles at the base of the quarry, not the height of the fill piles it will cross. As indicated on the maps marked as page Exhibits B-2, D-1 and D-2 to an Illinois Cement Company surface mining permit application included as SOLVE Schedule 2.2, the bottom of the quarry has an elevation of just under 500'. There are continuing, significant and, in some cases, unknown elevations that Ameren would have to deal with to build across the quarry. Moreover, Ameren would have to do this in a quarry that is still undergoing reclamation. In any case, those changes in topography and the uncertainty of the soils would be far more significant than the change in topography north and east of Maze Woods where PROTED 80 Alt 1 would cross the Little Vermilion River.

Perhaps more significantly impacting the engineering is the instability of the area along the abandoned railway beds where Ameren vaguely indicates it will route its line. Contrary the maps that Mr. Emmons sponsored, the lake in the quarry now abuts the railroad right of way. Contrary to Ex. 9.4, there is no pasture grass area. What Ameren treats as a railroad bed where it says it can locate its poles has actually slumped into the lake. SOLVE provided for the record photos of the hill slumping into the lake as SOLVE Schedule 2.1b. The lake has greatly expanded, becoming broader and deeper. In fact, the proposed lines run directly over the southwestern portion of that lake in the map. The lake is much wider now and farther under where the power lines would run. Rather than explain how it would build, maintain and access this area, Ameren simply ignored the present features of the area.

Finally, Ameren's route will exit the quarry at Knaff farm. According to Ameren's map (Ex. 11.11), Ameren intends to place a significant corner structure on the Knaff farm at a location that has been a consistent location for slumping of the hill. SOLVE Ex. 2.0 at lines 88-90. Mr. Emmons suggested in his sworn testimony to the Commission that this issue had been

handled by the Illinois Cement's installation of a geo-membrane. Ameren Ex. 16.0 at lines 376-95. In fact, Ameren's witness had no idea where the geo-membrane was. Tr. at 351-52. SOLVE witness Dr. Jasiak, however, testified that the geo-membrane (the installation of which he witnessed), was nowhere near where Ameren proposed to place its angle structure. Each of these pose a significant engineering problem. The record evidence shows that Ameren's witnesses have ignored or attempted to minimize these problems. The resulting location of the two main turning points (one where Ameren's route leaves the rail bed and one on the Knaff farm) are both on unstable areas.

Nothing on the PROTED 80 Alt 1 route presents this level of engineering difficulty. Nonetheless, Ameren tried to raise as issues the crossing of PROTED 80 Alt 1 across the Little Vermilion River and the number of angle structures necessary for PROTED 80 Alt 1. Where PROTED 80 Alt 1 crosses the Little Vermilion River will not have nearly the difficulty or complication of Ameren's crossing. A review of the National Wetland Inventory topographic maps (PROTED 80 Schedule 2.5) shows that the topographic relief on the portion of Ameren's preferred route as it crosses the Little Vermilion River drops from approximately 620' down to 500', a change of approximately 120'. By comparison, the crossing of PROTED 80 Alt 1 at the Little Vermilion River drops from approximately 650' down to 600' or a change of only 50'. PROTED 80 Ex. 2.0 at lines 334-41; SOLVE Ex. 2.0 at lines 212-226. In addition, the PROTED 80 Alt 1 crossing of the Little Vermilion River valley is approximately 1200' wide. Where Ameren's primary route crosses that valley is approximately one mile (5260 ft.).

PROTED 80 Alt 1 will require some angle structures. But, by paralleling the property lines on its longest east west leg, PROTED 80 Alt 1 will *minimize* turns and angle structures when compared to Ameren's primary route. The Commission can simply look at the curvature

of Ameren's line through the northeast part of La Salle to see that. Because of curvature of much of Ameren's route as it leaves La Salle and until it passes Route 178 at Utica many of the structures will need to be angle structures. Mr. Emmons agreed that angle structures can occasionally be needed even along roads that appear to be straight due to local circumstances. Tr. at 327. More angle structures would be needed for Ameren's primary route again where it crosses Route 80 and parallels the north side of Route 80 around the curve and again, east of Route 23 to the end, it appears that many angle structures will be required.

As a matter of simple engineering, PROTED 80 Alt 1 would be the least cost and least impactful alternative.

2. PROTED 80 Alt 1 Will Have A Significantly Lower Cost Of Right of Way

Ameren has materially underestimated the probable cost to acquire right of way through the necessary easements, apparently because of the continuing increase in property values along Ameren's primary route. Those increases in cost are captured in part by elements of Ameren's initial appraiser's report that Ameren seemingly ignored and in part by updates to that report that were produced during the course of this docket. Nonetheless, through a comparison of Ameren's internal and proprietary valuations with recent actual sales for real property along Ameren's primary route, PROTED 80 demonstrated that Ameren's estimates – even after they were increased at least once during the course of this docket to reflect increases in local land values (Ameren Ex. 8.0 at lines 41-52) – understated the likely cost of right of way along the Interstate 80 corridor. *See* PROTED 80 Ex. 1.0 at lines 206-74 and Ex. 2.0 at lines 181-92.

Equally important, the more rural property along PROTED 80 Alt 1 is significantly less expensive than the developed or quickly developing land along Ameren's primary route.

Ameren's own internal (and proprietary) estimate shows the right of way costs for Ameren's

primary route are nearly twice the right of way cost for PROTED Alt 1. *See* table included as page 4 of PROTED 80 Schedule 2.2 (proprietary). Not surprisingly, the estimate for PROTED 80 Alt 1 is far more in line with Ameren's right of way cost estimates for its own alternate routes, which also traverse rural areas. *See id.*

According to the court in *CURED v. Illinois Commerce Commission*, 285 Ill. App. 3d 82, 93, 675 N.E.2d 1159 (5th Dist. 1996), proper estimation of the cost of obtaining easements for a proposed route is critical to the least-cost means analysis of section 8-406(d), and the costs of eminent domain proceedings must be included in these cost estimates. Underestimating those costs can be a fatal defect in the record. Moreover, when the route is contentious, costs of eminent domain proceedings should be factored in to the least-cost means analysis. *Id.* at 93 (cost of eminent domain proceedings could add considerably to the cost of the route).

3. PROTED 80 Alt 1 Will Have A Significantly Lower Cost Of Construction

More importantly than that single segment of cost, PROTED 80 Alt 1 is likely to be the cheaper line to construct. Ameren claims not to know whether PROTED 80 Alt 1 would actually be less expensive to build, but the record evidence indicates that even Ameren believes that PROTED 80 Alt 1 will be cheaper. Ameren stated in its response to PROTED 80 Data Request 4.1 that it has not created or obtained any cost estimates for the PROTED 80 alternate routes. Page 4 of 5 (dated 8/1/2007) of Mr. Nelson's response to IL 71 Resistor's Data Request 5-1 Attachment #1 (PROTED 80 Schedule 2.2(P)), however, indicates that Ameren has in fact prepared cost estimates for the PROTED 80 alternates and that PROTED 80 Alt 1 would cost only \$18,200,000 to build. According to Ameren's data response, the total estimated cost for

Ameren's primary route is \$19,400,000 (although line 63 of Mr. Nelson's rebuttal testimony indicates that number to be \$19,600,000) as opposed to \$18,200,000 for PROTED 80 Alt 1.⁸

In surrebuttal, Mr. Emmons claimed that PROTED 80's comparison was not accurate because Ameren would have (and had not) included special structure costs, special access costs, clearing costs for large forest areas or other additional construction cost items. Ameren Ex. 16.0 at 127-30. Ameren's construction costs, however, are generic (albeit proprietary) as can be determined from the record evidence. As explained in Ameren's narrative answer, PROTED 80 Cross Exhibit 2 (proprietary) reflects the original cost estimate for Ameren's primary line, which corresponds to the \$19,000,000 included in Mr. Emmon's direct testimony. Ameren Ex. 3.3. Each segment of the column on that table includes an entry for "type." Entries for "type" include a voltage rating (*e.g.*, "138") and either "urban" or "rural." So, for example, the first seven segment columns (corresponding to the segments within La Salle) all show "138 urban." Each also reflects the same (proprietary) cost per mile. As explained in Ameren's narrative response, those "type" designations and those costs per mile all correspond with PROTED 80 Cross Ex. 3 (also proprietary). As can be determined from reviewing PROTED Cross Ex. 3, those estimates include no additional special structural cost, special access costs, clearing costs for large forest areas or other additional construction cost items. They are all generated from Ameren's construction factors. They reflect no basis for Mr. Emmons claim on cross examination "they have been adjusted for our -- they have been adjusted for the special conditions that are along our routes." Tr. at 325. Consistent with PROTED 80 Cross Ex. 2, Mr. Murbarger later explained (Tr. at 567-68) that special structural cost, special access cost or clear cost would be about the same for both lines.

⁸ Ameren's expectation that PROTED 80 Alt 1 is significantly cheaper is betrayed not only by Mr. Nelson's internal estimates, but by the repeated defense in his rebuttal testimony that a cheaper PROTED 80 route would not necessarily be a better route. See Ameren Ex. 8.0 at lines 70-84, 300-11, 322-37.

As a result of Ameren's reevaluation of right of way costs along its primary line, Ameren increased its estimate in its July 20 rebuttal testimony by \$600,000⁹ (Ameren Ex. 8.0 at lines 41-52), thus rendering a new cost estimate for Ameren's primary line of \$19,600,000.¹⁰ Again, there is no evidence that these numbers includes the special costs described by Mr. Emmons. In fact, somewhat curiously, Mr. Nelson's comparison of cost estimates for the Ameren lines and the PROTED 80 lines, dated August 1, 2007 (following the July 20, 2007 filing of Mr. Nelson's increased cost estimates) reflects a cost estimate of only \$19,400,000 for Ameren's primary line, \$200,000 less than the \$19,600,000 estimate Ameren provided to the Commission. Again, there is no evidence that Ameren added anything for special structures, etc.

Mr. Nelson's significantly cheaper internal estimate for the PROTED 80 routes is consistent with Ameren's factor-driven approach to estimating. One of the notable aspects of Ameren's proprietary factors for construction costs included on PROTED 80 Cross Ex. 3 is that all of the rural costs in the top half of that chart are consistently lower than the urban costs in the bottom half of the chart. Since PROTED 80 Alt 1 requires very little "urban" mileage, it stands to reason that it will be significantly cheaper to build on a per mile basis.

It is also interesting to note in relation to special construction that the segment chart include as PROTED 80 Cross Ex. 2 shows that all the initial "urban" segments on that chart reflecting the construction within the city of La Salle use the same factors for construction costs, "138 urban." Thus, they reflect absolutely no estimate for the significant special construction costs that Ameren must face crossing the Little Vermilion River valley.

⁹ That same \$600,000 increase in estimate is reflected near the top of the handwritten work paper page that directly precedes the comparative chart produced by Mr. Nelson. See page 3 of PROTED 80 Schedule 2.2.

¹⁰ Ameren attempts to downplay the significant difference in cost of right-of-way acquisition by stating that "the differences or issues being addressed by the intervenors on this subject are not material to the overall cost of the Project." Right-of-way acquisition costs represent about 13% of the total route costs. Ameren Ex. 15.0 at lines 27-40. When talking about a project in excess of \$18,000,000, 13% of that total cost is material given that costs are eventually passed on to the consumer.

Both because of the more expensive right of way along Ameren's more urban route and the more expensive construction costs along Ameren's more urban route, it is clear that PROTED 80 will be significantly cheaper to construct as reflected in Mr. Nelson's estimate in PROTED 80 Schedule 2.2.

The Commission should also bear in mind that Ameren's estimates ignore the cost of engineering through the Illinois Cement Company quarry, which can only drive up the cost of Ameren's primary line. Even if the more than \$1 million difference in cost estimate is less than what Ameren identified as the margin of error of 30% (Ameren Ex. 15.0 at lines 68-73), if Ameren's route is significantly likely to be much more expensive, that expense would be passed on to Ameren's customers through electric rate charges.

4. Staff Failed To Determine The Least Cost Route

Section 8-406(b) requires a full exploration of the least-cost-means of satisfying the service needs of the utility's customers. *CURED*, 285 Ill. App. 3d at 89. According to the appellate court, a determination of least-cost means is "without sufficient basis and substantial foundation" when the Commission's staff does not properly consider the question of least-cost means. *Id.* at 91-92. A review of Staff witness Linkenback's testimony raises a question about how aggressively he evaluated whether Ameren's route alternatives were least cost. E.g., Tr. at 1134. Alternatives must be considered for there to be an impartial investigation into the least-cost means requirement. *CURED*, 285 Ill. App. 3d at 95 (finding an impartial investigation did not occur where the record revealed the Commission focused on ways to approve the utility's proposed route "without seriously considering any alternatives"). Linkenback relied largely upon Ameren filings and his "visual inspection" to determine which route was the most reasonable. Tr. at 1123-24, 1141. Finally, Linkenback states that he could not determine how Ameren selected their routes, and thus did not examine any route possibilities other than those

proposed. Tr. at 1125, 1131-33, 1142. It is not at all clear that staff has satisfied the standard of determining least-cost means set out in *CURED*. The Commission should engage in a diligent comparison of the alternatives.

* * *

The record testimony strongly supports the conclusion in PROTED 80 Schedule 2.6 that PROTED 80 Alt 1 will be less difficult and costly to construct.

c. PROTED 80 Route Is Not Significantly More Difficult Or Costly To Operate Or Maintain

The cost of maintenance of any PROTED 80 alternative would be roughly the same as for Ameren's primary route. PROTED 80 Alt 1 does create certain costs as a result of the fact that much of it is not on a roadway. Much of Ameren's primary route, however, parallels Interstate 80. The reality of using the Interstate 80 corridor is that any operation and maintenance to the line will have to be accessed from the north-south roads (not from the Interstate). Therefore, those miles of PROTED 80 Alt 1 that follow section lines will be no more difficult to operate or maintain than the miles of Ameren's primary route that follow Interstate 80 (or Interstate 39).

Also, because of the practice of constructing roadways on one mile grids in Illinois, the PROTED 80 Alt 1 will not require the construction and maintenance of access roads. Moreover, nearly all, if not all, of a transmission line following PROTED 80 Alt 1 can be seen from roadways, even though those lines will not be a prominent feature as they would be if *on* the roadway as Ameren proposes. In the end, the record evidence does not indicate that PROTED 80 Alt 1 will be more difficult or costly to operate.

In summary, this criterion does not differentiate between PROTED 80 Alt 1 and Ameren's primary route.

d. PROTED 80 Alt 1 Will Have Significantly Fewer Environmental Impacts than Ameren's Primary Route

Ameren's argues that the environmental impacts along PROTED 80 Alt 1 outweigh the impact of Ameren's primary line because PROTED 80 Alt 1 crosses a significant wetland at Bucks Creek. To reach this conclusion, however, Ameren ignores the significant environmental impact its route will have crossing the Little Vermilion River valley, and the potential impact its primary route will have on Indiana bat habitat. Those impacts significantly outweigh the minor impacts of PROTED 80 Alt 1.

Mr. Emmons claims (Ameren Ex. 9.0 at lines 409-21) that the route Ameren has chosen to cross the Little Vermillion River is already environmentally degraded and therefore a preferable route for its transmission line. Similarly, Mr. Cruse claims (Ameren Ex. 11.0, lines 291-93) that "the primary route was sited specifically from the LaSalle substation to I-80 to avoid the deepest portions of the Little Vermilion river valley." In these statements and in general, Ameren overstates the current degradation of the vegetation within the abandoned rail beds making up a large part of the westernmost segment of its primary route, and, by so doing, understates the negative impact on that segment of a new transmission facility. While Ameren relies on the status of this area as a former railroad right of way to suggest that it is degraded, railroads, historically, did not clear cut a 100' right of way. SOLVE Ex. 2.0 at lines 175-88, 203. Consistent with their usual practices, these railroads used only the width necessary to construct the track, in this case 15'-20', for miles and, in this case, from Highway 351 all the way to the south edge of the reclaimed quarry. No doubt in large part because the railroad did not cut an entire 100' right of way, this whole area is on the Gap Analysis Map for the Indiana bat provided by Ameren. SOLVE Ex. 2.0 at lines 203-11. As reflected in Solve Schedule 2.1c, this treeline carries seamlessly into an area to the south that is heavily wooded for several more miles that

continues all the way to the Illinois and Michigan Canal (I&M) and the Illinois River. Moreover, this heavily wooded, contiguous area is within ¼ mile of the Blackball Caves, a known hibernaculum (winter home) of the Indiana bat.

1. The Segment Of Ameren’s Primary Route That Approaches And Crosses The Little Vermilion River Will Have A Significant Negative Environmental Impact

As discussed in Section III.b.1. above (in relation to engineering concerns), to get from the La Salle substation to the Interstate 39 corridor, Ameren’s primary route slashes through a significant green space formed by the abandoned rail beds to two different railways and the perimeter of Illinois Cement Company quarry. In addition to the simple loss of significant green space, removing that vegetation will encourage erosion that may have a significant impact, particularly due to two superfund sites in the vicinity. Ameren also understates the potential that this area qualifies as Indiana bat habitat.

Again, Ameren provided little in the way of credible evidence on this issue. Despite identifying environmental impacts as a factor that it considered, Ameren sought to introduce evidence on this issue through a witness, Mr. Cruse, who admitted that he had “minimal biological training” other than reading reports on the issue. Tr. at 887. He nevertheless presented a “Biological Assessment” that he did not author that may suggest significant environmental impacts from Ameren’s proposed route, but Mr. Cruse ignored or downplayed those impacts in his testimony. Tr. At 872-79. By comparison, Dr. Jasiak provided specific and credible information based on his personal knowledge and study of this area.

A. Ameren’s Route Will Require Removal of Significant Vegetation And Cause Significant Erosion

Ameren’s Primary Route exits the La Salle substation and runs east for several hundred feet on a denuded stretch of abandoned railroad. After that point, though, it goes into a very

heavily wooded area that is anchored by the two abandoned railroad beds, the LSBC and the IC. To the east of the IC bed lies Vermilinvue, a subdivision that will eventually include 39 homes. Tr. at 1031-32. From those railroad beds, the route goes through the Illinois Cement Company quarry, and through an area of the Little Vermilion River Valley that is currently being reclaimed for recreational use and habitat creation.

Mr. Emmons suggests (Ameren Ex. 9.0 at line 483) that “Vermilion Vue subdivision is buffered from the primary route by a screen of trees.” Similarly, Mr. Cruse states (Ameren Ex. 11.0 at lines 314-18):

The segment of the primary route that parallels an abandoned railroad corridor was sited in this location in order to take advantage of the existing corridor while maintaining separation from existing residential homes and the newly constructed residential subdivision. This railroad corridor is comprised of heavily degraded woodland that does not contain significant environmental attributes.

In order to determine the impact on Vermilionvue and surrounding houses, Ameren would have to know what railroad corridors are there and on which corridor it is intending to build its line. At the hearing on this matter, Mr. Emmons testified that he was not aware that there were two railroad corridors. Tr. at 330-31. Mr. Cruse, who attempted to provide personal observations about the nature of the woodland corridor, had never been there and had no personal knowledge of its makeup and was unaware that there were two railroad beds. Tr. at 864-65. Mr. Cruse’s characterization of the La Salle railroad corridor as degraded stands in stark and cynical contrast to Ameren’s attempt to characterize the Railnet corridor on the Ottawa Wedron route as a far more significant environmental issue. In describing the Railnet corridor, which is an active rail line and is a visible gap in the tree canopy from overhead photomaps, Ameren’s expert witness, Richard Ward stated: “It is amazing how you don’t feel it [the railroad track] as you walk through that area. It is almost a canopy of trees and it feels very wooded and

it is not – it is quite comfortable.” Tr. at 166. But even Mr. Ward readily admitted that he could not even see the railroad beds in La Salle due to the canopy. Tr. at 237-39. He further explained with regard to the abandoned rail corridors, “I tried to get to it, but it is kind of grown over back in those lots there on the west and down those roads.” Tr. at 239.

Dr. Jasiak provided testimony that the woodland corridor was made up of mature trees. SOLVE Ex. 2 at lines 186-88. Dr. Jasiak also presented a very recent overhead photograph of the segment paralleling the railroad corridor(s). *See* SOLVE Schedule 2.1c. That photograph showed a dense canopy of trees covering both of the abandoned railroad corridors. Prominent in the photograph were two residential houses. Dr. Jasiak explained (Tr. at 1001-05) that the two homes, one belonging to Meg Bibula and one belonging to Warren Norris, were built on (Norris) or between (Bibula) the railroad right of ways and that the houses were no more than 100’ feet apart. The Norris house was built within the last year and is not reflected on Ameren’s photomaps. Both homes are currently secluded, both in general and from each other, by the tree canopy now covering the railroad right of ways. The Norris house lot backs up to the Vermilionvue subdivision mentioned by Mr. Emmons. According to Ameren (Ameren Ex. 3.3 at page 1, item 6), creating a roadway necessary to construct and maintain the transmission line will require Ameren to remove a 100’ wide strip of trees. Dr. Jasiak’s photograph very graphically demonstrates that removing a 100’ wide strip of trees for construction and roadway will destroy any screen and buffer, and make the power poles completely visible to adjoining residents. Tr. at 1000-02.

Where that 100’ foot swath would fall depends on which railroad corridor Ameren intends to place its line, but no Ameren witness could testify to that. Tr. at 238, 330-31, 659-60, 867-68. Dr. Jasiak opined from reviewing Ameren route map (Ameren Ex. 11.11), that Ameren

was actually intending to use parts of both railroad corridors, starting (from the north) on the IC and moving to the LSBC before turning into the quarry. Tr. at 1004-05. If Ameren uses the IC corridor or, worse, moves from the IC corridor to the LSBC corridor, it would seem likely that these two homeowners would not only see their forest cover completely disappear, they would now be staring into each others houses through a picket fence of transmission line poles.

Aside from denuding what is currently a mature growth of trees, removing that strip of trees will also encourage further erosion in a railroad corridor that is already severely eroded and is not even 100' wide in many areas. Any additional clear cutting or construction will aggravate soil erosion into the unnamed stream (between the rail corridors) and into the 18-acre quarry lake and, ultimately, into the Little Vermilion River. PROTED Ex. 2.0 at lines 327-29; Tr. at 1076-78.

Erosion has serious consequences in this area. Ameren ignored the impact of the excavation necessary to build its lines on two Superfund sites (LaSalle Electric Utilities Co. ("EUC") and M & H Zinc) simply because its route does not actually pass through those sites. But the transmission route does pass through areas of sediments and runoff which are still flowing toward the Little Vermilion valley. SOLVE Ex. 2.0 at lines 373-81. The State of Illinois paid \$65 million to clean up the EUC site and the M&H has not been started yet. The unnamed stream passes through the proposed route and is the source of some of the problems that affect the river, causing it to be on the 303D list.¹¹ At least 40 residents' yards between the EUC site and the LSBC railroad were excavated and the soil incinerated in an attempt to rid that property of the chemicals that the unnamed stream contains. Residents of this area have had their property already devalued by the Superfund. Ameren's plan would be another significant

¹¹ The 303D list is a designation by the IEPA that denotes an impaired stream or river due to contaminants as well as sediments, bacteria and heavy metals.

negative impact and, at the very least, create complicated engineering problems. SOLVE Ex. 2.0 at lines 381-89.

By comparison, PROTED 80 Alt 1 will cross the Little Vermilion River in a far less environmentally sensitive area. The property traversed by PROTED 80's Alt 1 north and west of the Maze Woods segment has been mined, farmed and grazed by cattle. This fragmentation would not be affected further by power lines running outside the north edge of the Maze Wood property. From west to east, the area is 154 acres of denuded farm ground, 145.53 acres of Western Sand and Gravel, which has been partially excavated for minerals, 156 acres for grazing cattle, and 159 acres of barren farm ground. SOLVE Ex. 2.0 at lines 279-91. This topography is far from possible bat habitat and this degraded area is much larger than the "degraded Quarry" as Ameren refers to the Illinois Cement property on its primary route.

**B. Ameren's Route Will More
Significantly Impact Indiana Bat Habitat**

The single significant wildlife issue impacted by the transmission route is the habitat of the Indiana bat. The Indiana bat is on the endangered species list. In order to evaluate the evidence in this docket, the Commission should bear in mind the distinction between bat *habitat* and bat *populations*. The evidence shows that there are significant areas of bat *habitat* in La Salle County, but little evidence of bat *populations*. While Ameren promoted the Indiana bat issue as an advantage of its routes over the routes of other parties,¹² it is ultimately unclear whether any significant population of Indiana bats actually inhabits the forested areas that qualify as Indiana bat habitat within the study area. To the extent that Indiana bat habitat is an

¹² Ameren's cynical approach to this issue is exemplified by its aggressive promotion of the Indiana bat habitat issue on the Ottawa to Wedron line followed by its stipulation to use a route it claimed would negatively impact that habitat with no comment on the basis for its change of position.

issue, however, both common logic and the record evidence show that Ameren's primary route will more negatively impact that habitat than PROTED 80 Alt 1.

Todd Bittner of the Illinois Department of Natural Resources (see SOLVE Ex. 2.0 at lines 434-35) has stated that the most logical place for Indiana bats is the Illinois River Corridor, which is south of Interstate 80. Similarly, according to Ameren's own Biological Assessment, on July 27, 2006, Ms. Lindh of the United State Fish and Wildlife Survey "indicated that the USFWS had determined that there is a 5-mile buffer around Blackball Mine and that the presence of the buffer would have serious implications on all of the proposed southern routes that impact suitable habitat." PROTED 80's Alt 1 is the only route which is almost entirely outside the 5-mile radius. Ms. Lindh also stated that "the USFWS strongly suggests that impacts to suitable habitat within the 5 mile buffer be completely avoided."

According to the map "Illinois GAP Analysis for Indiana bat" (Ameren Ex. 11.10) and consistent with Mr. Bitner's observation, habitat decreases with distance from the north side of the Illinois River Valley. Not surprisingly, the forested railroad corridor on Ameren's proposed route is included as bat habitat on the GAP Analysis Map. Ameren Ex. 11.10.¹³ This corridor is not as degraded as Ameren would lead the Commission to believe. The hardwoods are substantial and it is on the edge of the Quarry lake that is growing with each additional rainfall.

On the single factual question that impacts bat habitat along Ameren's primary route – the character of the flora in the railway corridors -- the only competent testimony comes from Dr. Jasiak, who testified that the corridor is comprised of mature hardwood trees. SOLVE Ex. 2.0 at lines 186-89. Ameren's "evidence," the Biological Assessment, agrees with this conclusion along the southern segment of that corridor, but suggests that the northern segment

¹³ Mr. Cruse states (Ameren Ex. 11.0 at 150-52) that there is no bat habitat "in this area." While it is unclear what "this area" refers to, there is clearly bat habitat obscured by Ameren's primary route line on the GAP Analysis map in the area corresponding to the railway corridors.

does not have the right floristic characteristics. See Table 2 of the Biological Assessment, included in PROTED 80 Schedule 2.7.¹⁴ But the Biological Assessment is no more than hearsay, since Ameren failed to produce its author or any witness with the expertise to rely on it or even to explain it. Tr. at 887. Thus, the record evidence strongly indicates that the entire forested area of the railroad corridor has the correct floristic characteristics to be deemed quality Indiana bat habitat and should be treated as such.

That bat habitat status is further supported by the proximity of the 18-acre quarry lake (which is also not reflected in Ameren's outdated maps). Of all the routes in this docket, this forest corridor is also the closest of any route to the caves at Blackball Mines, the only known roosting area ("hibernacula") of the Indiana bat in La Salle County. Ameren's primary route is clearly the most negatively impactful to maintaining Indiana bat habitat in La Salle County.

Bat populations is a different issue than bat habitat. Parts of the Biological Assessment call into question whether any of the routes would impact a known Indiana bat *population*. Specifically, according to the Biological Assessment, and according to minutes from an August 21, 2006 meeting among Ameren and the U.S. Fish and Wildlife Survey and the Illinois Department of Natural Resources (PROTED 80 Schedule 2.13):

- La Salle County is primarily used only for winter habitat (Blackball Mine Hibernacula)
- Blackball Mine supports a very low wintering population of Indiana bats (average-1,200)
- There are no records of Indiana bat maternity colonies in La Salle County and no Indiana bats have been found outside of Blackball mine during the summer season in La Salle County
- Summer surveys have been conducted along the Little Vermilion River (LVR) in La Salle County on a number of occasions and no Indiana bats have been recorded
- In general, brooding habitat in La Salle County, in particular the project area, is very marginal. The majority of the area is comprised of agricultural land and urban areas with

¹⁴ Ameren's witness, Mr. Cruse, attempted to hide even the characteristics of the southern segment by selectively quoting from the description of the shrubs and ignoring the description of the canopy and subcanopy. Tr. at 876-77.

small isolated woodland areas (in a landscape context). These isolated habitat patches are not typically utilized by maternity colonies.

- If there are Indiana bats summering in the La Salle County they would most likely be found south of the hibernacula in the Starved Rock State Park. This area contains a fairly large, less fragmented forested habitat.
- Indiana bats do not utilize a 5 mile area (USFWS has established a 5 mile buffer around the Blackball Mine to protect fall swarming habitat) around the hibernacula during the swarming period. They are restricted to swarming around the entrance to the mine. Foraging is not a primary focus during this period, the focus is mating. Habitat quality decreases substantially further away from the mine, especially north. There is no reason for the bats to venture away from the mine entrances during this period.(except for the first 2.5 miles of which there is very little if any suitable bat habitat all of PROTED 80 Alt 1 is outside of the 5 mile buffer)
- Male bachelor bats unlikely utilize the LVR corridor for foraging during the summer or they would have caught one by now.
- Mr. Kath stated with certainty that this project, regardless of which of the alternative routes is chosen, will not impact Indiana bats or their habitat.

The PROTED 80 routes traverse the same general areas that were considered for the Ameren alternative routes (and all of these routes are much farther north and farther away from the Blackball Mine than Ameren's primary line). The only legitimate concern for the Indiana bat *populations* must center on the Blackball Mine area.

The invasion of the power lines in the railroad corridor destroys many potential roosting sites and fragments the corridor. The railroad corridor is comprised of mature hardwoods and abundant wildlife. This affects many species in addition to the Indiana bat. SOLVE Ex. 2.0 at lines 438-41. Ameren witness Mr. Cruse concludes that both Ameren's route and PROTED 80 Alt 1 will impact only three acres of the Indiana bat habitat west of Interstate 39. Ameren Ex. 11.0 at lines 156-60. Mr. Cruse agrees with PROTED 80's conclusions about findings reached in the Biological Assessment. Ameren Ex. 18.0 at 264-65. Mr. Cruse concludes that both Ameren's primary route and PROTED 80 Alt 1 are "equal" in regard to the Indiana bat issues. Ameren Ex. 18.0 at 313-14. Despite all this, moving the transmission route to the north, as

PROTED 80 advocates, can only benefit the preservation of Indiana bat habitat and the Indiana bat.

2. PROTED 80 Alt 1 Does Not Impact Maze Woods

To be clear on the record, PROTED 80 Alt 1 does not impact Maze Woods. PROTED 80 Alt 1 does run along the southern edge of the property to the north of the Maze Woods, thus running just north of the Maze Woods. That routing keeps the route out of the technical jurisdiction of the Maze Woods, but, equally importantly, minimizes any interference or fragmentation of the Indiana bat habitat or other habitat that relies on contiguous forest.

PROTED 80 has also indirectly responded to the concerns raised in this record by Ameren's attachment to letters from the IDNR and INPC. Ameren Exs. 11.04 and 11.09. Ameren solicited these letters on the incorrect premise that PROTED 80 Alt 1 would run through the northern edge of Maze Woods. As Mr. Cruse acknowledges in his surrebuttal testimony, the concerns of IDNR and INPC (embodied in Ameren Ex. 11.04 and 11.09) regarding that segment of the route do not apply. Ameren Ex. 18.0 at lines 308-09.

3. PROTED 80 Alt 1's Crossing Through Buck Creek Is Not A Significant Environmental Issue

Ameren argues that PROTED 80 Alt 1 will have a negative environmental impact where it crosses a wetland known as Buck Creek. Although Ameren initially argued that it would be difficult to obtain the necessary permissions from the Army Corp of Engineers to cross this wetland, Mr. Cruse ultimately admitted that he believe that Ameren could obtain those permissions. Ameren Ex. 18.0 at 349-51. More importantly, Mr. Cruse also states:

I would acknowledge that along the PROTED 80 Alt 1 route (and Ameren's primary route for that matter), the amount of wetlands actually impacted by the construction of a transmission line (as opposed to potentially impacted) could be reduced *or eliminated* by line design, pole placement, or other mitigation measures. Ameren Ex. 18.0 at lines 296-300 (emphasis added).

In the face of this statement, any further concern about the impact on wetlands can only be deemed a red herring and non-issue.

* * *

In summary, Ameren's clearcutting and excavations in the areas around LSBC and IC railroad beds, the Little Vermilion River and the Illinois Cement Company quarry are likely to be environmentally devastating and makes Ameren's primary route far more negatively impacting. To the extent that Indiana bat habitat and Indiana bats are real concern, Ameren's primary route is also more negatively impacting. The one PROTED 80 Alt 1 route segment that Ameren claims to have an environmental concern about already supports an electrical line and even Ameren admits it can address the environmental concerns to the satisfaction of the Army Corp of Engineers that oversees those issues or that those issues can be avoided entirely. As indicated on PROTED 80 Schedule 2.6, this criteria strongly favors PROTED 80 Alt 1.

e. **PROTED 80 Alt 1 Is Less Likely To Impact Any Historical Resources**

Neither party to this proceeding pointed to any significant impact on any historical resource. In addition, Ameren submitted a letter from the Illinois Historical Preservation Review Board indicating that it had not objection to Ameren's routes. Notwithstanding that fact, there is much history associated with Starved Rock, Pierre Marquette and Louis Joliet. All of this history is associated with the Illinois River and the water travel that the river supported. Ameren's primary route leaves La Salle and heads toward the Illinois River, and runs within approximately two miles of the Illinois River for much of the route. Ameren responds by asserting that any historical artifacts along the Interstate 80 corridor would have been uncovered by the construction of that Interstate. What Ameren ignores, however, is the fact that the relevant segments of its route run outside of the actual Interstate corridor. Therefore, it is

entirely possible that they will be disturbing land that was not disturbed by the construction of the Interstate.

Perhaps more significantly, Ameren's line will emerge from the Illinois Cement Quarry and continue to east toward Interstate 39 at the closest point of that route to the Illinois River corridor. If there are historical resources associated with the Illinois River corridor, they are far more likely to occur along Ameren's primary route. By comparison, the PROTED 80 alternatives move away from the river and are located much further north than Ameren's primary route. The PROTED 80 alternatives reduce the potential for encountering unexpected archeological finds. As indicated on PROTED 80 Schedule 2.6, the criteria is not negatively impacted by any of the routes.

f. PROTED 80 Alt 1 Will Have Fewer Social And Land Use Impacts

Ameren's primary routes creates a number of negative land use impacts, while those associated with PROTED 80 Alt 1 are more easily addressed or mitigated.

1. Ameren's Primary Route Will Destroy The Value Of Occupied Residences

There are probably few land use impacts as devastating as having a 138 kV line replace the grove of mature trees that surround your home. But this is exactly what will happen to the Bibula and Norris homes in the segment of the Ameren primary route that parallels the abandoned railroad right-of-ways. Tr. at 1000-02. As is explained in more detail in Section III.h. below, Ameren's primary route will impact significantly more occupied residences than PROTED 80 Alt 1.

2. Ameren's Primary Route Will Impede Current Development Along Interstate 80

Beyond those areas in La Salle, Ameren's proposed route would be inconsistent with land uses along Interstate 80. Recent development of properties along or in the vicinity of Ameren's

primary route on Interstate 80 include a truck stop, a water park (under development) and an amusement center (proposed) near Utica. PROTED 80 Ex. 1.0 at line 333-35. Direct Testimony of Thomas Gutilla on behalf of Utica at lines 47-73. They also include subdivisions in each of the La Salle, Utica and Ottawa areas and a SuperWalmart near Ottawa. Sales of properties (as shown in PROTED 80 Schedule 1.2) as well as present landowner plans indicate that future development is expected for much of the area along Ameren's primary route. As a result, land values have appreciated considerably. Because of these facts, the landowners along Ameren's primary route oppose to the line being routed on their property. They also believe that the consideration that Ameren has been offering is nowhere near the present value of the properties along the proposed route. This not only implies that condemnation on many of these tracts is highly likely but also that Ameren's line item for right of-way costs is severely underestimated for this route.

As Tom Gutilla explained on behalf of Utica, transmission lines would be inconsistent with this type of development. Gutilla Direct at lines 77-84. They will limit how the land adjacent to the line can be used and specifically where buildings can be placed. They will also present an unsightly face for businesses along Interstate 80, a face that the businesses could otherwise use to promote their images to potential customers on a well-traveled thoroughfare. PROTED Ex. 2.0 at lines 353-64.

3. Ameren's Primary Route Will Create Potential Negative Impacts With Existing Pipeline Utilities

Ameren's primary route also parallels high pressure (700 psi) natural gas pipelines for approximately 4.5 miles. As Mr. Bennett explained (PROTED 80 Ex. 1.0 at lines 366-68), stray currents can affect adjacent pipelines. Although many pipelines reside in electric transmission corridors, a new electric line placed adjacent to a pipeline system puts an additional

responsibility upon the pipeline operators to ensure that stray currents from the electric transmission lines are not adversely affecting the pipelines integrity and jeopardizing the safety of the general public. The placement of Ameren's primary route as proposed simply places an additional risk to the general public that would be avoided by placing the line elsewhere.

Ameren argues (Ameren Ex. 9.0 at lines 216-25 and 236-41) that this impact could be mitigated. Although Ameren did not even apprise the Commission of this concern (whether or not it can be mitigated) until PROTED 80 brought it up, PROTED 80 agrees that induced AC current on pipelines can be mitigated. PROTED 80 Ex. 2.0 at lines 294-96. This mitigation when properly developed, designed, installed and maintained *reduces, but does not eliminate* the risk of corrosion related issues as well as the safety related issues to those working on these pipelines. PROTED Alt 1 is a viable route and one more benefit of it is the fact that it is not within a pipeline corridor.

4. Ameren's Primary Route Will Interfere With Bike Trails And A Future Park

Much of the reclaimed Illinois Cement Company quarry will be dedicated for use as a La Salle city park. SOLVE Ex. 1.0 at lines 69-71. These transmission lines also would impact the future spur of the Grand Illinois Trail (American Discovery Trail) along the Little Vermilion River Greenway. The Grand Illinois Trail also uses the abandoned railroad bed to connect with the Illinois and Michigan Canal Trail (National Heritage Corridor). This area is included on the official City of La Salle bicycle route map and it will compromise areas that are planned as La Salle city parks. SOLVE Ex. 1.0 at lines 73-77.

A well-traveled city park should not receive less attention than a lesser used nature preserve like Maze Wood. If there are negative impacts (or even perceived negative impacts) in having transmission lines near populated places, those impacts are going to be far more

pronounced in a city park and along a city bike route than adjacent to a nature preserve. While there are clearly instances of power lines near bike trails, it remains an incompatible use that should be avoided where possible. Bikers do not want to ride on a denuded path along side poles and high voltage lines.

5. SHOCK's Claims Regarding The Impact of PROTED 80 Alt 1 On Agricultural Land Are Overstated

Although PROTED 80 and SOLVE have no objection to the original position of SHOCK – to prevent Ameren's 138 kV lines from running next to three different schools – and PROTED 80 and SOLVE very purposely addressed that issue in the development of PROTED 80 Alt 1, in its rebuttal testimony, SHOCK asserted that the position that PROTED 80 Alt 1 would have a far more significant negative impact on agricultural land than Ameren's primary route. The record evidence does not support that claim, not only because PROTED 80 Alt 1 will have a very limited impact, but also because Ameren's primary route will have the same type of agricultural impact on agricultural land, some of which happens to be near an interstate highway.

Ameren and SHOCK refer to the segment of Ameren's primary route along Interstate 80 simply as "the I-80 corridor." In fact, of Ameren's primary La Salle-Wedron route, in miles, slightly less than half of it parallels the I-80. Starting at La Salle, approximately four of the first six miles of it runs through property within the City of La Salle, including areas that are slated to become parks and bike trails, residential areas and areas that are or (with the excavation necessary to establish these transmission lines) could become Superfund sites. PROTED 80 Ex. 2.0 at lines 115-24. The last nine miles of Ameren's primary route runs primarily through agricultural land and would have at least the same impact on agriculture as Ameren's first alternative route.

Second, even that part of Ameren's primary route that can generally be referred to as in the Interstate 80 corridor is *not in* the "I-80 corridor." Ameren and SHOCK speak of the transmission route as if it will run down the median of the interstate or along one of the shoulders, but it will not, a point Mr. Emmons made plain to counsel for SHOCK. Tr. at 260-61. The placement of poles on what Ameren and SHOCK refer to as the I-80 corridor is actually on adjacent land, much of which is currently agricultural land, which would suffer all the same impacts as any other agricultural land the line traversed. Where the owner is using that property for farming, the poles will most certainly be in a planted field. See Tr. at 316-17. Moreover there has been no indication that Ameren has been granted its request to overhang the Interstate right-of-way. Absent such a grant, its transmission poles will be pushed further out in to agricultural land.

By comparison, PROTED 80 Alt 1 places the route and its poles on the back property lines of the agricultural fields it impacts. The right of way could be more or less equally divided by the adjoining land owners on either side with the structures being placed immediately adjacent to the property line on one property and the Safety and Exclusion Zones extending in both directions. PROTED 80 Cross Ex. 1 is a collection of photographs that show a number of hedgerows, which SHOCK witness Mr. Blue agreed were typical of hedgerows in rural La Salle County. Tr. at 698. Some of those hedgerows would be wide enough to accommodate transmission line poles and some currently have distribution or transmission class poles in them. Where there is a hedgerow wide enough to accommodate, the pole could be placed entirely in that row. This would truly have the least impact on agricultural land, since the footprint of the pole is the only practical impact of the transmission line on an agricultural use in the field.

Even if the transmission lines were placed in planted fields, the record suggests that the actual square footage of agricultural land taken out of production by PROTED 80 Alt 1 would be substantially similar to the calculations reflected in Mr. Nelson's original testimony (Ameren Ex. 2.0 at lines 11-18 on page 12) for Ameren's rural route alternatives:

actual farmland taken out of production will be less than one (1) acre. The majority of the easement area will only have overhanging wires. The areas that will be taken out of production will be the area required for the series of 2 ft. diameter poles with a few 6 ft. diameter structure bases.

In addition to this, as stated in lines 210-212 of Mr. Emmons rebuttal testimony:

It should be noted that farming within the Safety and Exclusion Zones is not prohibited. In fact, only a small area surrounding the transmission line structures is lost to agricultural production.

Although PROTED 80 has presented in much of its testimony that its concerns primarily have to do with tourism, economic development and property values (which PROTED 80 continue to believe in), the fact remains that the majority of the existing Ameren preferred route is presently agricultural, similar to that of PROTED 80 Alt 1.¹⁵

Another benefit of PROTED 80 Alt 1 is that, where it impacts agricultural land, it is on the back of the properties. First, the properties under discussion are frequently one mile square. This places the "back" of the property a full mile off the road. That distance from the roads and from the residences and other structures (most of which tend to be built near roads (*see* Ameren Ex. 3.3 and PROTED 80 Ex. 1.0 at lines 391-93) will reduce every social impact of the lines. By comparison, Ameren's primary route, particularly where it parallels Interstate 80, will place the

¹⁵ Ameren's own witness, Mr. Ward (Ameren Ex. 13.0 at lines 134-40), while agreeing that the La Salle/Ottawa area will experience growth, contends that such growth may be as many as 40 to 50 years away. PROTED 80, as well as the elected officials of Ottawa and Utica believe that this will occur much sooner and believe that the placement of electric transmission lines along Ameren primary route will deter this growth. However, whether its five years, ten years or 40 to 50 years, the agricultural land along Ameren's primary route would be impacted no less than the route impacted by PROTED 80 Alt 1.

transmission line on the most visible portions of each of the impacted properties, thus having the most impact on property values and uses.

Mr. Emmons asserts that the extensive use of cross country construction would be inconsistent with Ameren's agricultural impact mitigation agreement with the Illinois Department of Agriculture. Ameren Ex. 9.0 at lines 96-99. As its title implies, most of that agreement, however, concerns the mitigation of agricultural impacts where a line is placed in an agricultural setting.¹⁶ Mr. Emmons also ignores the fact that Ameren's two other alternatives, both of which he characterized as acceptable alternatives (Tr. at 262-63), both primarily traverse agricultural areas just like PROTED 80 Alt 1 and that Ameren considered both to be better alternatives until it presented them to the public. Also, Ameren witness Mr. Nelson, who originally introduced the agricultural impact agreement (Ameren Ex. 2.1), apparently still believes Ameren's current first alternative route is a better route. Tr. at 677.

The concerns that Ameren now raises (and that SHOCK raised in the public forum) regarding the potential agricultural impact of PROTED 80 Alt 1 are not mitigated in any material way by Ameren's primary route today. The agricultural impact is, at best, a wash. If, as PROTED 80 suggests, Ameren routes the transmission line along the property lines and places the poles adjacent to the property lines, PROTED 80 Alt 1 will have less impact on agricultural land than Ameren's primary route.

¹⁶ Section 1.C. of the agreement states that "The highest priority will be given to locating the transmission line parallel and adjacent to highway and/or railway right of way." This agreement, however, cannot obligate this Commission to make the placing of transmission lines next to highways or railways the paramount concern of all transmission line dockets. Nor can Ameren reasonably argue that placement of transmission lines near highways must always be given its top priority. Finally, the next line of the agreement, dealing with how lines will be placed in cropland when they cannot be placed adjacent to a highway, strongly implies that the goal is not just to follow a highway, but to use its right of way. Here, Ameren cannot use the right of way of Interstate 80.

6. PROTED 80 Alt 1 Does Not Need To Impact The RLA Near That Route

At the eleventh hour in this docket, SHOCK submitted a document indicating the existence of a Restricted Landing Area (“RLA”) at a place called Flaherty Field adjacent to PROTED 80 Alt 1, very close to the northwesternmost corner of that route. The only evidence in this docket regarding the actual use of the RLA was that of Dr. Jasiek, who testified that the field was used for radio controlled airplanes. Tr. at 1046.¹⁷ While use as an active RLA would be inconsistent with the original routing of PROTED 80 Alt 1, it does not have to impact the Commission’s routing decision. Routing the transmission line per the original design of PROTED 80 Alt 1 would simply require that the RLA of Flaherty Field be revoked. While regrettable, the existence of an RLA (which, consistent with its title as “restricted” is a private airstrip) does not impose any obligations on surrounding landowners or compromise the Commission’s authority to establish a transmission route or provide eminent domain authority. There is no legal restriction against building what would be termed an “airport hazard” near an RLA that is the base for fewer than twenty planes. 620 ILCS 5/49.1.¹⁸ Thus, building a transmission line along PROTED 80 Alt 1’s original route would not violate any state laws regarding RLAs, but it would cause the rescission of Flaherty Field’s RLA status and shut down any active use of the landing strip by manned aircraft. While that might be a reasonable outcome given the owner’s inaction in the face of receiving notice of this proceeding, it is not PROTED 80’s goal to impose negative impacts where they can be reasonably avoided.

Another option, and the one that PROTED 80 and SOLVE support would be a small route modification that would move PROTED 80 Alt 1 sufficiently far away from Flaherty Field

¹⁷ Dr. Jasiek further testified that, in his 68 years of living in La Salle County and in his frequent trips through the area of Flaherty field, he has never seen a manned aircraft near the field. Tr. at 1084-85.

¹⁸ While the record does not indicate if there any planes based at Flaherty Field, Illinois regulations restrict RLAs to basing a maximum of six aircraft. 92 Ill. Admin. Code, Sec. 14, App. F.

to allow it to maintain its RLA. Under the Illinois regulations controlling RLAs, an RLA requires certain clearances to maintain its status. Those clearances are spelled out under the Department of Transportation's Rules, Title 92, Chapter 1, Subchapter b, Part 14, Appendix E, Illustration A. See PROTED 80 Schedule 3.1. To maintain the RLA, there must be a clearance slope of 15:1 to a distance of 3,000' from the end of the runway. Assuming 75' tall poles (as Ameren has stated it would use in rural settings), the RLA restriction would not be compromised by a transmission line on 75' poles that crossed perpendicular to the runway at any distance farther than 1,125' from the end of the runway. Appendix E also has a clearance requirement slope of 4:1 to a distance of 135' running parallel to the centerline of the landing strip.

As a simple solution to SHOCK's last minute submission, PROTED 80 submitted a slight modification of PROTED 80 Alt 1 to avoid any impact on Flaherty Field. This modification does not affect any landowners who have not already been contacted, does not increase the length of PROTED 80 Alt 1, and quickly returns to PROTED 80's proposed route, to take advantage of all of the benefits associated with PROTED 80 Alt 1. This also could be done without impacting nearby Maze Woods.

PROTED 80's modification was presented to the Commission through two photomaps. *See* PROTED 80 Schedule 3.2 and 3.3. Both of PROTED 80 alternative segments approach Flaherty Field from the south on the originally proposed PROTED 80 Alt 1. Both would then turn east on the east-west half section line of Dimmick Township, Section 16. That east west half section line is more than 400' south of the center line of the airstrip, thus well outside the 135' clearance space that must parallel the landing strip. The two alternative segments differ only in how far east they travel before turning to the north to rejoin the PROTED 80 Alt 1 route,

either approximately half way across the section (thus traveling north across agricultural land) or all the way across the section (thus traveling north along E 3rd Road).

The first alternative segment would travel east for approximately 1,320' (well beyond the 1,125' distance necessary to maintain the field's RLA status) to the north-south quarter section line then turn north for approximately half a mile where it would reconnect with the original PROTED 80 Alt 1. The second alternative segment would travel east for approximately half a mile to E 3rd road, where it would connect with an existing 34kV line (Ameren Ex 18.0 at line 243) then travel north for approximately half a mile where it would reconnect with the original PROTED 80 Alt 1.

The first alternative segment described above returns the line to PROTED 80 Alt 1 on the north side of N 34th road where (as stated in Ameren Ex. 18.0 at line 243) it might require some overbuilding. An additional option where this alternative segment rejoins the original PROTED 80 Alt 1 would be to remain on the south side of N 34th road until crossing E 3rd road and continuing east for approximately 1,320' then angling to the north to avoid Maze Woods.

The second alternative segment described above gets the line to E 3rd road but does then pass by one additional house and requires additional overbuild for approximately half a mile. It also would pass along the west boundary of the Maze Wood Nature Preserve, but, as can readily be seen from the Public Hearing map admitted into the record and PROTED 80's photo maps, it would be well away from the tree line of Maze Wood.

PROTED 80 recognizes that either alternative segment will add three major angle points but believes that, because of the relatively straight nature of PROTED 80 Alt 1, it continues to be the route that minimizes turns and angle structures.

* * *

Any transmission line route will have some negative impact on land uses. Consistent with PROTED 80 Schedule 2.6, however, PROTED 80 Alt 1 will have fewer such negative impacts than Ameren's primary route.

g. Ameren's Primary Route Will Impact More Landowners And Other Stakeholders

PROTED 80 Alt 1 has significantly fewer landowners and significantly fewer parcels than Ameren's preferred routes, as demonstrated by a comparison of Ameren Ex. 3.3 and the 2005 LaSalle County Plat Book. The numbers are as follows:

<u>Route</u>	<u>Ameren Primary</u>	<u>PROTED 80 Alt 1</u>
Number of Landowners	83	57
Number of Parcels	128	62

This is an extremely important fact by itself, but also points to the even more important fact that, by routing its line so close to more densely occupied areas, Ameren is routing its transmission line to an area with more impact.

h. Ameren's Primary Route Will Impact Significantly More Occupied Homes And Other Structures

Proximity of homes to a power line is always a high sensitivity, probably the highest, due to actual safety issue of having high voltage lines where a break could affect a home, potential and perceived safety issues like EMF and the unsightliness and stigma of having a home near a line. Even Ameren's witness, Mr. Emmons acknowledged the following:

If they can be avoided, we try to go – we try to go away from areas where our line is such that we impact a lot of houses, and that for a reasonable -- a reasonably costed alternative exists for moving away from them. And we will also go away if we have it such that our right-of-way will actually be located, go through a house, that's a situation that we would try to avoid, is where our general right-of-way with our nominal right-of-way width would pass through a structure would be something. Tr. at 381.

Similarly, the Commission has placed a high priority on avoiding occupied structures.

For example, the Commission's Order in Docket 06-0179 (page 20) stated:

Although the Staff proposal is longer and thus more costly, it provides, among other things, an important benefit of avoiding the siting of high-voltage transmission lines in close proximity to residential dwellings. Under the Staff proposal, there will be no dwellings within 500 feet of the line; whereas, under the Ameren proposal the line would be within 200 feet of two dwellings -- a land use factor of "high sensitivity" according to Ameren's own selection process -- and within 500 feet of another three as described in testimony from Staff and the affected landowners. The Commission believes this consideration is especially important inasmuch as the line in question is not a low or medium voltage line; rather, it is a high-voltage 345 kV line.

Although the line at issue here is a 138 kV line, it is still a high voltage line and houses within 200' of that line deserve no less attention. In this docket, Staff identified proximity to occupied structures as an important consideration in rejecting the route now agreed to by Ameren for Ottawa to Wedron. Staff Ex. 5.0 at lines 216-35. Clearly, the proximity of any route to residential homes must be treated as the greatest sensitivity.

Based on an analysis of photography and field verification, PROTED 80 witness Mr. Bennett developed the following count of houses on PROTED 80 Alt 1 in order to compare the structures that Ameren counted on its own Ex. 3.3 as being within 200' of centerline of its own primary route:

<u>Route</u>	<u>Ameren Primary</u>	<u>PROTED 80 Alt 1</u>
Occupied Houses	15	11
Garage & Farm Buildings	15	19
Grain Bins	0	4
Other	34	5

Significantly, Ameren's count on this chart is outdated and apparently based only on its aerial photography, which was done October of 2005. Ameren Ex. 9.0 at p. 10; Tr. at 337-38. There is no evidence that Ameren's numbers include new developments near Ottawa like Trails

of Terra Cotta and Shadow Ridge. Ottawa Ex. 2.0 at 235-38; Tr. at 962, 975. Trails of Terra Cotta, which would abut Ameren's primary route currently has approximately 10 homes. Shadow Ridge, directly south across Interstate 80 has 15-20 homes. Both currently have more residences under construction. Tr. at 975. There is also no evidence that Ameren's chart counts significantly impacted homes like the Norris house discussed in Section III.d.1.A. above or one of the homes that has been built in Vermilionvue since Ameren created its photomaps. Tr. at 1032. The concern that Ameren witness Richard Ward asserted for residents of Dayton, Illinois would be far more appropriately shown for the residents in the Norris and Bibula houses: "I think the main thing in [Dayton], it is going to cut down a corridor of trees. That's – that and then the power line will be right there next door to the houses. I mean, right next door to the houses." Tr. at 221. Similarly, Mr. Emmons testified that Ameren would avoid even having its nominal right of way pass through a structure. Tr. at 381. Cutting down there entire tree line to build a transmission line between or even over these homes would be outrageous.

The count of houses within 200' of Ameren's primary line should also go up significantly if, as Dr. Jasiak understood (and no Ameren witness could testify to), the line was actually intended to move from the IC railroad bed on the east side of the corridor to the LSBC railroad bed on the west side of the corridor. In that case, a great majority of the homes bordering the LSBC right of way, over 62 homes, would be within 200' of the line where Dr. Jasiak testified that Ameren had purchased an option. Tr. at 1032. In short, Ameren's count of occupied structures, which is already higher than PROTED 80's, is probably grossly undercounted due to what appears to be its outdated source and due to critical ambiguities about where Ameren is placing its line within the City of La Salle. By comparison, PROTED 80's assessment and field count were conducted during 2007. They are up to date.

Importantly, it is not simple diligence or timing that causes Ameren's house count to fall below what is actually there today. It is the fact that Ameren is proposing to place its line through areas like northeast La Salle and the Interstate 80 corridor that are experiencing significant residential and commercial growth. It is far more probable that the number of occupied homes will continue to grow along Ameren's primary route, at least until the transmission line is actually built. Therefore, even the chart above understates (perhaps significantly) the disparity in the number of occupied homes between Ameren's primary route and PROTED 80 Alt 1 and further understates what that house count is likely to be by the time the route is built.

Based solely on the chart above, PROTED 80 Schedule 2.6 indicates that this criteria favors either route. Given the other occupied structures that fall on the Ameren route, this very significant factor, in fact, favors PROTED 80 Alt 1 and the strength of that difference will only grow over time as development continues along the more densely populated route associated with Ameren's primary line.

**i. Ameren's Primary Route Will Impact Significantly
More Existing And Planned Development**

For the same reasons that PROTED 80 Alt 1 impacts significantly fewer occupied homes and structures, it will have far less impact on existing and planned development, such as Vermilionvue in La Salle, Trails of Terra Cotta and Shadow Ridge in Ottawa, all discussed in Section III.h above. *See also* Gutilla Direct. This factor also favors PROTED 80 Alt 1 over Ameren's primary route.

j. No Route Will Enjoy Significantly More Community Acceptance

There is substantial evidence that the community is unwilling to accept Ameren's primary route. The creation of PROTED 80 is one very important piece of evidence that the community will not lightly accept Ameren's primary route.

Ameren has claimed that it discussed its options for exiting La Salle with local landowner groups. But, as discussed in Section II.b. above, there was no real opportunity for input on Ameren's primary route (which was not even disclosed to the public as Ameren's primary route until Ameren filed its petition in this docket). In fact, Ameren's primary route is highly controversial to a large segment of the community which includes approximately 10 individual property owners who have interest in property adjacent to the proposed primary route exiting La Salle.

SOLVE's separate intervention and participation with PROTED 80 is another substantial piece of evidence refuting the community acceptance of Ameren's primary route. Interestingly, although Ameren claims (Ameren Ex. No. 2.0) that it has worked diligently with SOLVE, SOLVE is now a member of PROTED 80 and has filed its own intervention. As evidence of the lack of community acceptance of this route, SOLVE submitted as SOLVE Schedule 1.1 copies of petitions opposing the western section of Ameren's primary route, which bear over 300 signatures, attesting to the concerns of the community.

The Village of Utica has filed an intervention in opposition to the proposed route as it passes through Utica on the south side of Interstate 80. Utica's concerns are that this property and other properties in the immediate vicinity have an extremely high potential for development in the areas of commercial, light industrial use, and/or as a residential subdivision. *See* Gutilla Direct. The Village is currently working with several developers regarding these types of

developments. The Village strongly believes that construction of the overhead electric transmission lines at this location would severely impact the potential development of that property. The potential development of that property is critical to the economic future and growth of the Village as the Village continues its recovery from the 2004 tornado.

**1. SHOCK's Legitimate Concerns
Are Addressed By PROTED 80 Alt 1**

PROTED 80 made a concerted effort when investigating alternatives to meet the stated concerns of SHOCK. In lines 67-75 of his Direct Testimony, SHOCK president Mr. Blue stated that the principal concern of SHOCK is the presence of schools, homes and businesses along Ameren's 1st alternative route. Throughout Ms. Small's testimony she re-emphasizes this concern. In response to those concerns, PROTED 80 made sure that its routes stayed well away from the grade schools and residences along Ameren's 1st alternative route.

Unfortunately, PROTED 80 submission of its route alternatives unmasked a different face of SHOCK. Not content to protect the "Safety and Health of Our Community and Kids," Mr. Blue and Ms. Small advocated that the route be placed along the Interstate 80 corridor instead of running through agricultural land of any kind. Of course, those statements ignore the fact that much of the land that Ameren's primary route would impact along the Interstate 80 corridor is currently agricultural land and, if Ameren's witness, Mr. Ward is correct, will likely remain agricultural land for a long time. They also ignore SHOCK's stated concern for passing by homes. But, more to the point, it appears from SHOCK's rebuttal testimony that its stated position to avoid the schools was something of a front for an attempt simply to force the route away from the members' properties.

While PROTED 80 and SOLVE have no objection to SHOCK approaching Ameren early on and working with Ameren to avoid the route that SHOCK's members disliked, PROTED 80's

later arrival on the scene should not shift any burden of proof here about the ultimate question: what is the least impact route for the La Salle to Wedron line. In a way, the SHOCK members “benefited” from their location on Ameren’s first preferred route (which is now Ameren’s 1st alternate route). Due to their relationship with that first preferred route, they received early notice of the process. Because of that, they could react to Ameren’s original public meetings which were held on March 29 and 30, 2006. In fact, the evidence shows that Ameren’s routing decisions from those meetings forward were basically in reaction to the vocal concerns of SHOCK.

By comparison, it was not until June of 2006 that Ameren began contacting individuals along what is now Ameren’s primary route. For example, Mr. Bennett first received a letter from Ameren on about June 14, 2006. The people who would form PROTED 80 first met on July 5, 2006 and communicated their concerns to Ameren in a letter dated July 20, 2006. Even at that time, Ameren’s current primary route was no more than an alternative and did not officially become the “primary” alternative until Ameren made its filing in this docket at the beginning of November 2006. No higher burden should be placed upon PROTED 80 to “disprove” Ameren’s primary route in favor of any other route including the PROTED 80 alternatives. In the end, while SHOCK is clearly trying to move the route out of the back yard of its constituents, only PROTED 80 and SOLVE have developed a route that actually creates less negative impact for the overall study area.

In order to try to tip the scales between SHOCK on the one hand and PROTED 80 and SOLVE on the other, Ameren introduced the testimony of Richard Ward, who claimed to provide an expert opinion that only the opponents of Ameren’s line wished to push what they perceive to be a problem for them off on others in the community. That testimony of course

ignored the fact that municipal governments of Ottawa and Utica had, in the public interest of their communities, formally opposed Ameren’s green route. In fact, Mr. Ward did not even bother to read the testimony submitted by Utica. Tr. at 247-48.

Equally important, Mr. Ward’s opinion was formed not on the basis of any direct interaction with any person in La Salle County. Tr. at 233-34. He spent only a day and a half in La Salle County on a “car hike” that covered both of the routes in this docket (Ottawa to Wedron and La Salle to Wedron). Tr. at 123. In forming his opinion, Mr. Ward spoke only with Ameren personnel. *Id.* And, even though he was purporting to opine on the basis for public opposition to how the transmission line would be routed, he had not read the testimony of either SHOCK witness and seemed only vaguely aware that SHOCK existed at all. Tr. at 232. In the end, Mr. Ward agreed that his opinion -- that the transmission line “would pose minimal, if any, direct negative impacts on adjacent properties, regardless of their use” – applied equally to rural settings.

2. PROTED 80 Has Addressed The Concerns Of La Salle Peru Township School District

La Salle-Peru Twp. High School Dist. No. 120 filed testimony in this docket, raising some potential impacts of different route alternatives on a property owned by the school district and located next to the La Salle substation. The School District has some plans to use that property as a sports complex and didn’t want any of the routes to result in transmission lines bisecting the property. The School District submitted as its Ex. 1.1 and described by its witness Ms. Pedersen (School Dist. Ex. 1.0 at lines 5-6) some alternative alignments for various routes, including PROTED 80 Alt 1, to allow those routes to exit the substation and avoid the School District Property.

PROTED 80 and SOLVE understand the concerns of the La Salle-Peru Twp. High School Dist. No. 120. Neither PROTED 80 nor SOLVE has any objection to the Commission modifying any of the PROTED 80 alternatives as shown in Dist. No. 120 Ex. 1.1. This change, which is more in the nature of an alignment change than a route change, does not impact any of the routing issues that are in dispute between PROTED 80 and Ameren.

3. PROTED 80 Alt 1 Will Create Fewer Community Concerns About EMF

SHOCK, SOLVE and the La Salle Peru Township School District each expressed concerns about the impact of EMF (electromagnetic field) radiation in relation to a 138 kV transmission line. SHOCK witnesses Mr. Blue and Ms. Small expressed that concern with regard to schools and homes. SOLVE witness Dr. Jasiek expressed that concern with regard to impact on existing residential areas and park land.

Ameren claims to make an effort to avoid populated structures, schools, *etc.* because of the communities' perceptions regarding the dangers of EMFs. Tr. at 850-51. Concern about EMF was the founding principle (or at least the stated founding principle) of SHOCK in advocating that Ameren move the lines away from what is now its first alternate route. SOLVE agreed with Mr. Blue and Mrs. Small that the schools should be avoided. All of PROTED 80's routes, including Alt 1, do just that. Curiously, while Ameren spent a page and a half attacking SOLVE's single comment on the danger of EMFs, it ignored SHOCK's testimony about EMF concerns that took up the bulk of SHOCK member Mary Small's Direct Testimony (SHOCK Ex. 2.0). But unless Ameren acknowledges the community's concern over EMFs, Ameren had no reason to move the line from what is now its first alternate to what is now its primary route other than to side with one group of landowners over another. Without even getting to the actual impact of EMFs, the perceived impact of EMFs have very real effects on a community, on the

community's perception of its safety and the resulting affect on its members' willingness to stay and participate and on land values. SOLVE Ex. 1.0 at lines 442-59. The perceived impact of EMFs, particularly on occupied structures, is an important issue and avoiding that perceived impact favors PROTED 80 Alt 1.

* * *

In summary, neither route will enjoy widespread community acceptance so, as PROTED 80 Schedule 2.6 indicates, this criteria does not favor either route.

k. Ameren's Route Will Have Significantly More Negative Visual Impact Than PROTED 80 Alt 1

As Mr. Emmons commented (Ameren Ex. 9.0 at lines 118-19) "the final product of the overhead transmission line is visible to the general public and open to constant scrutiny." He also noted (*Id.* at line 481) that "Any route selected will have a visual impact." That impact is clearly not from an esthetically appealing perspective. Ameren's own witness, Mr. Ward stated (Ameren Ex. 13.0 at line 121) that "towers and wires are clearly visible and would not be deemed attractive." Mr. Ward's testimony at lines 224-25 also indicates that the Community Appearance chapter of the 1969 Comprehensive Plan for the City of La Salle states that "Regardless of where poles and wires are placed, they detract from appearance."

La Salle, Utica and Ottawa are locations that have very high potential for future development. Much of that potential revolves around proximity to Interstate 80 and Interstate 39. No matter how carefully they are constructed, electric transmission lines are an eyesore and will impede development where they are built. Gutilla Direct at lines 90-95. Building them where there is a demonstrated interest in development is contrary to the public interest. PROTED 80 Alt 1 is built on the back lines of properties in a rural setting. They will simply be

seen by fewer people and the people who see them will, for the most part, be viewing them from a distance. This factor clearly favors PROTED 80 Alt 1.

I. Ameren's Primary Route Does Not Take Advantage Of Existing Corridors

Ameren's route does follow a transportation corridor to the extent it follows Interstate 80. As explained above, however, that corridor does not provide any significant advantage and presents a number of problems related to the development that is accompanying that corridor. Other than the utilization of existing electric line corridors the only potential existing corridor is that of the pipelines, a concern that PROTED 80 and SOLVE addressed in Section III.f.3. above. While this criteria nominally favors Ameren, it is of no real benefit.

IV. CONCLUSION

Six of the 12 routing criteria identified by Ameren favor PROTED 80 Alt 1: difficulty and cost of construction; environmental impacts; social and land use impacts; proximity to homes and other structures; proximity to existing and planned development; and visual impact. Only one of the 12 factors (existing corridors) favors Ameren's route. The other five do not strongly favor either route over the other. Thus a simple count of criteria strongly favors PROTED 80 Alt 1. Over and above counting criteria, the real differences in these routes are the significant engineering and environmental impacts on Ameren's primary route through northeast La Salle and the number of occupied homes and businesses in close proximity to Ameren's primary route both in La Salle and along the Interstate 80 corridor, including in the Village of Utica and City of Ottawa. Given the development along that corridor, that number of occupied structures will only continue to grow. By comparison, PROTED 80 Alt 1 runs from the La Salle substation to the Wedron substation primarily through sparsely developed rural area. As such, it encounters few occupied structures and is unlikely to have many more built in proximity to the line. It accomplishes that without significant environmental harm or engineering difficulty, at a

cheaper price. PROTED 80 is clearly the superior route. Ameren has thus failed to meet its burden of proving that it has the lease cost route.

For this reason and based on the record evidence, PROTED 80 and SOLVE respectfully request that the Commission order Ameren to use the PROTED 80 Alt 1 route as presented in this Brief and in the testimony.

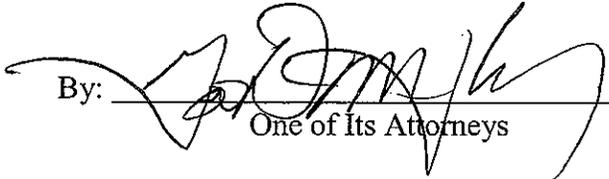
Dated February 29, 2008

Respectfully submitted,

**PROPONENTS OF TOURISM AND
ECONOMIC DEVELOPMENT ALONG I-80**

and

**SAVE OUR LITTLE VERMILION
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Certificate of Service
(Docket No. 06-0706)

A copy of Proponents of Tourism and Economic Development along I-80, Inc.'s ("PROTED 80") and Save Our Little Vermilion River Environment's ("SOLVE") Initial Brief was served upon the following persons by e-mail this 29th day of February, 2008.

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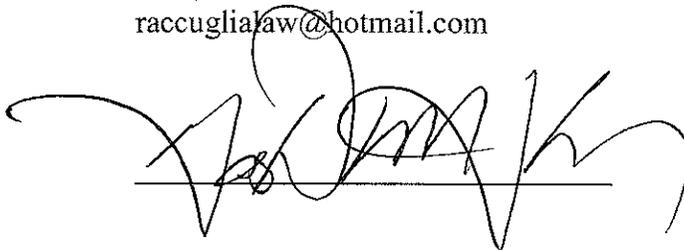
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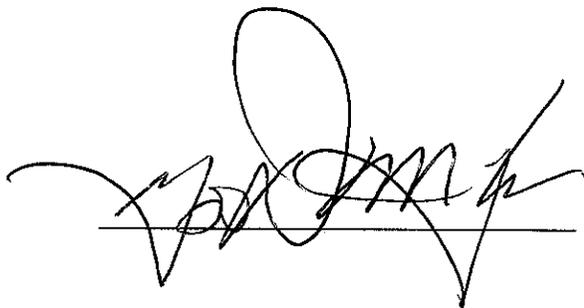
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A copy of Proponents of Tourism and Economic Development along I-80, Inc.'s ("PROTED 80") and Save Our Little Vermilion River Environment's ("SOLVE") Initial Brief was served upon the following persons by depositing a copy of same in the U.S. Mail, properly addressed and with postage fully paid this 29th day of February, 2008.

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