



MISSOURI DEPARTMENT OF NATURAL RESOURCES

**MINUTES OF THE
MISSOURI MINING COMMISSION MEETING
LACHARRETTE CONFERENCE ROOM
LEWIS AND CLARK STATE OFFICE BUILDING
1101 RIVERSIDE DRIVE
JEFFERSON CITY, MISSOURI
OCTOBER 19, 2015**

Chairman Gregory Haddock called the meeting to order on October 19, 2015, at 9:00 a.m., at the Department of Natural Resources, Lewis and Clark State Office Building, LaCharrette Conference Room, located at 1101 Riverside Drive, in Jefferson City, Missouri.

Commissioners Present: Dr. Gregory Haddock, Chairman; Mike Larsen, Vice Chairman; Commissioner Joe Gillman; Commissioner John Madras.

Staff Present: Kevin Mohammadi, Staff Director; Sharon Thompson, Secretary to the Commission; Bill Zeaman; Daniel Wedemeyer; Lesley Branch; Cole Hough; Ashley Harrison; Beth Aubuchon; Rosie Schulte; Greg Snellen; Guy Frazier.

Others Present: Laura Elsbury, Attorney General's Office, Counsel to the Commission; Steve Rudloff, MLPA; Chris Thiltgen, Capital Quarries; Jerry Prewett, Deputy Division Director, Missouri Geological Survey; Carey Bridges, MGS-GSP; Court Reporter, Midwest Litigation.

Approval of July 23, 2015 Commission Meeting Minutes

Agenda Item #2

Commissioner Gillman made a motion to approve the July 23, 2015 open meeting minutes with Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Madras: yes
Commissioner Gillman: yes
Vice Chairman Larsen: yes
Chairman Haddock: yes

The motion passed with 4 yes votes.

Approval of July 27, 2015 Teleconference Commission Meeting Minutes

Agenda Item #3

Commissioner Gillman made a motion to approve the July 27, 2015 teleconference meeting minutes with Vice Chairman Larsen seconded the motion. A roll call vote was taken.

Commissioner Gillman: yes
Commissioner Madras: yes
Vice Chairman Larsen: yes
Chairman Haddock: yes

The motion passed with 4 yes votes.

Public Hearing for Proposed Rulemaking 10CRS 40-10.020 Permit Application Requirements

Agenda Item #4

See following pages for transcript of Public Hearing prepared by the court reporter.

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BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES
MISSOURI MINING COMMISSION

PUBLIC HEARING

October 19, 2015
Lewis and Clark State Office Building
1101 E Riverside Drive
Jefferson City, MO 65102

Before:

- Gregory Haddock - Chairman
- Mike Larsen - Vice Chairman
- Leslie Gertsch - Member
- Aaron Jeffries - Member
- Joe Gillman - Member
- John Madras - Staff Director, Clean Water Commission
- Kevin Mohammadi - Staff Director, Missouri Mining Commission

THE COURT REPORTER:

Jenna Petree
MIDWEST LITIGATION SERVICES
2511 Broadway Bluffs
Columbia, MO 65201
573-449-0561

1 PROCEEDINGS

2 CHAIRMAN HADDOCK: The Commission will begin
3 the public hearing on the proposed amendment to 10 CSR
4 40-10.020 Permit Application Requirements. These rule
5 changes were published for public comment in the Missouri
6 Register, Volume 40, No. 18 on September 15, 2015. The
7 purpose of this public hearing is to provide the Department
8 opportunity to present testimony and to provide an
9 opportunity for the public to comment -- provide
10 comments -- on the proposed rule-making.

11 This public hearing is not a forum for debate
12 or resolution about issues. The Commission asks that those
13 commenting limit their testimony to five minutes and not
14 repeat comments that have already been made.

15 the Commission will first hear testimony from
16 the Department. Following the Department's testimony, the
17 Commission will give the public an opportunity to comment.
18 We ask that all individuals present fill out a speaker card
19 so our records are complete. If you wish to present verbal
20 testimony, please indicate that on your speaker card.

21 The Commission is holding this hearing to
22 assist the public in commenting on the proposed rule-making
23 The public comment period will close today at 5:00 p.m.
24 This has been extended. I will explain in just a minute.
25 When you come forward to present testimony, please speak

1 clearly and begin by identifying yourself to the court
2 reporter.

3 The court reporter will now swear in anyone
4 wishing to testify at the public hearing before the
5 Missouri Mining Commission today. All those -- do you do
6 this as they come up? Okay. So they will do this as they
7 come up.

8 Two other additional items is that we, the
9 program, has received two comments; one from the Missouri
10 Limestone Producer Association, and another from Missouri
11 Industry Counsel -- sorry, the Mining Industry Counsel of
12 Missouri. And there is also a comment that was provided on
13 behalf of the staff. The comment period has been extended
14 for an additional seven days to October 26 at 5:00 p.m.

15 So if Director Mohammadi could present the
16 rule -- the permit application requirements.

17 DIRECTOR MOHAMMADI: Good morning,
18 Mr. Chairman and members of the Commission. My name is
19 Kevin Mohammadi. I'm staff director of the Missouri Mining
20 Commission and the Land Reclamation Commission Program. I
21 will be providing testimony on behalf of the Department and
22 program with regards to proposed Rule 10 CSR 40-10.020. I
23 will not go through each line of the rules. I will
24 provide, in general, what rule is about and then if you
25 have any questions I will be happy to provide answer to

1 you.

2 The proposed rule increases the fee from
3 bounded acre from \$10.00 to \$13.00 dollars. The
4 application fee is going to remain the same at \$800.00.
5 The site fee is going to increase from 0 to 10 acres
6 \$200.00 per site; 10 to 75 acres is going to increase to
7 \$500.00 per site; 70 to 200 acres is going to be \$800.00
8 per site; and any site greater than 200 acres is going to
9 be \$1,000.00 per site. We are also increasing the cap from
10 \$3,000.00 to \$6,000.00 in 2017; and to \$7,500.00 in 2019;
11 and \$9,000.00 in 2020.

12 In addition to increasing the fee, we also
13 have made some changes to public notification process to
14 reflect the statute. The applicant or operator is required
15 to notify all the property owners within the first half a
16 mile radius of the mine plant. In addition to that, the
17 permit will be issued by the program director, not by the
18 Commission. And if any concerned party wants to appeal the
19 director's decision, they can appeal that to the
20 Administrative Hearing Commission and Administrative
21 Hearing Commission will make a decision that will be
22 provided to this Commission and the Commission has
23 opportunity to adopt the Administrative Hearing Commission
24 recommendation, modify it, or reject it. And that decision
25 can be appealed to Appellate court.

1 We have made some minor changes to the rules
2 like change the name for federal agency.

3

4 I will be glad to answer any questions.

5 CHAIRMAN HADDOCK: Commission, any questions
6 for Director Mohammadi? Director Mohammadi, I have a
7 question. There is the sections that are in bold, is that
8 what's changed?

9 DIRECTOR MOHAMMADI: The section in bold are
10 the ones that are proposed and the one in brackets are the
11 ones that have been taken out.

12 CHAIRMAN HADDOCK: Okay. So in the
13 notification portion where it describes that certified mail
14 will be sent to -- it says first-tier record landowners.
15 It's proposed to removed contiguous or real property that's
16 adjacent and replace it with a language that's basically
17 saying we have a buffer area. Everything that's within
18 this distance, landowners need to be --

19 DIRECTOR MOHAMMADI: Within the first tier.

20 CHAIRMAN HADDOCK: Yes, okay.

21 MR. LARSEN: Exactly what does first-tier
22 landowner mean?

23 DIRECTOR MOHAMMADI: For
24 example, if you have three property owners that are
25 one after the other to the mine plant, only the one that is

1 within the first tier of the mine plan are required to be
2 notified. Not all the way up to half mile radius.

3 CHAIRMAN HADDOCK: Okay. So the radius is --
4 it's half a mile. It doesn't mean that notification will
5 be given to everyone within half a mile; it will be the
6 first one that's closest?

7 DIRECTOR MOHAMMADI: That's correct.

8 CHAIRMAN HADDOCK: So if they served as a
9 buffer for the people behind them if there isn't any land
10 that sticks out, then that would be sufficient?

11 DIRECTOR MOHAMMADI: That's correct. For
12 example, if you have 10, 20, 30, 40 property owners within
13 that half a mile not all property owners will be
14 notified. Okay. The property owner that is within the
15 first tier of the half mile radius.

16 MR. LARSEN: So in the case of say a
17 subdivision, and you may have 40 or 50 homes within a half
18 mile, only the first landowner gets notified?

19 DIRECTOR MOHAMMADI: That is what the statute
20 says.

21 MR. LARSEN: Do you foresee any problems with
22 that from the other landowners?

23 DIRECTOR MOHAMMADI: Well, obviously the rest
24 of the landowners can attend because the meeting -- because
25 the operator is required to publicize in the local

1 newspaper that is proposing mining. If one person within a
2 subdivision is notified, everybody learns about it.

3 CHAIRMAN HADDOCK: Now, in the example that
4 Mike just gave, that would only be if the subdivision was
5 oriented in such a way that only one property was affected.
6 If it was somehow turned laterally and you had five people
7 that were all -- they would all be within that first tier
8 and they we all be contacted.

9 DIRECTOR MOHAMMADI: That's correct.

10 CHAIRMAN HADDOCK: But if it's at the end of a
11 cul-de-sac and there is only two property owners at the
12 very end and that's within the first half mile. Then I guess one
13 other question that comes out is properties are not
14 normally shaped. So if there is an angle, I could imagine
15 people actually looking and plotting vectors and wondering
16 if that property was slightly angled out. Does it buffer
17 or shield? Is there going to be any recommendation or I
18 could imagine some of the operators wondering should I or
19 should I not contact this other one because it looks like a
20 piece of property hangs out by five feet that would make it
21 possibly eligible as also being an indirect portion. Is
22 there -- I guess that I'm just curious if there would be
23 some direction given to them before litigation leads to
24 direction that may interpret, you know, what first tier may
25 mean?

1 DIRECTOR MOHAMMADI: Normally we encourage the
2 operator to be very transparent and reach out as much as
3 they can. And if the question like the example you
4 mentioned, Mr. Chairman, comes up and the operator asked
5 us, we will be providing guidelines to notify the property
6 owners in order to avoid problems late on.

7 CHAIRMAN HADDOCK: And my last question in
8 this area, and I think this is trying to address this, we
9 have received testimony from property owners that were
10 surprised to find out they were not considered in the
11 bracketed statement of being adjacent or contiguous because
12 there was an encapsulation of a property within a property;
13 there was only therefore one full property that was
14 adjacent and contiguous. This -- does this attempt to
15 maybe address that issue that we have been --

16 DIRECTOR MOHAMMADI: That's right. That's
17 significant improvement to the previous rule because in the
18 past what operators did, they basically put the mine plan
19 within 50 feet of the property boundary and that way they
20 were not required to notify. Only the property owner that
21 was contiguous and adjacent. Where this proposed rule is
22 basically requires to notify all the property owners within
23 the first tier within half a mile radius.

24 CHAIRMAN HADDOCK: Thank you. That was hard
25 to defend logically when a question would come up, but it

1 was the way it was written. I think many people were often
2 surprised that's how it had to be interpreted. This
3 attempt to adjust that to include what we would consider to
4 be logical, adjacent, or contiguous, or near properties I
5 think helps address many of those concerns.

6 DIRECTOR MOHAMMADI: That was by legislators
7 who wrote the statute and the Governor subsequently signed
8 it. Basically this rule reflects the statute.

9 MR. LARSEN: This is the language in the
10 statute then?

11 DIRECTOR MOHAMMADI: That's correct.

12 CHAIRMAN HADDOCK: Commissioners, any other
13 questions for the Director? Thank you. I would ask if
14 there are anyone else who would like to come and speak on
15 behalf of the proposed rule-making? Will the two
16 statements that you said were submitted, will they be
17 entered into the record?

18 DIRECTOR MOHAMMADI: Yes.

19 MR. LARSEN: Where are those comments? Have
20 those been submitted to the Commission yet? I have not
21 seen them.

22 DIRECTOR MOHAMMADI: We can provide that to
23 you. One is from Mining Industry Council of Missouri, and
24 the other one is from Missouri Lime Association. We will
25 be glad to provide that to you.

1 MR. LARSEN: Were there any comments from
2 those two entities relative to the discussion we just had
3 as far as public notification or was it just discussing a
4 fee structure?

5 DIRECTOR MOHAMMADI: It was with regard to the
6 public notification.

7 MR. LARSEN: I would be interested in seeing
8 those.

9 DIRECTOR MOHAMMADI: Sure.

10 CHAIRMAN HADDOCK: Yes, Steve, come on forward
11 and you will be sworn in just shortly and after that
12 introduce yourself.

13 STEVE RUDLOFF, having been first duly sworn, testifies as
14 follows:

15 MR. RUDLOFF: Well, good morning. I'm Steve
16 Rudloff, manager of the Missouri Limestone Producers
17 Association. And the comments that we submitted were
18 really just very technical in nature, just for
19 clarification more than anything. Nothing really
20 substantial. In regarding to the issue of notification, we
21 really made an attempt in the legislation to broaden the
22 scope of individuals or landowners that would get direct
23 notification to address the problem of the mine planned
24 area being within the property line boundary and people
25 living relatively close to the operation not getting that

1 direct notification. Of course there is always the broad
2 notification in the newspaper record that would basically
3 notify anyone that reads the newspaper. But, you know, we
4 established that zone, I guess, half a mile out and any
5 landowner that was, you know, within that, like we
6 mentioned before, that first tier of landowners within that
7 half mile zone gets the direct notification. So we felt
8 like that was a substantial expansion of the direct
9 notification requirement.

10 MR. LARSEN: I can see where that would be an
11 improvement from what it was because prior to that a mine
12 operator would just withdraw his mine plant area maybe 10
13 feet inside the fence line and wouldn't really have to
14 provide notification to anyone.

15 MR. RUDLOFF: Right. And we felt that needed
16 to be improved.

17 MR. LARSEN: I believe that is an improvement.
18 My concern, I guess, I still have one is that the next door
19 neighbors are going to complain they did not get a
20 certified letter. Understand I know this is an improvement
21 to reach out to landowners regardless of where the mine
22 plant area is drawn. But I'm just wondering if we are
23 going to run into problems with complaints from people who
24 live right next door to someone who got a certified letter
25 who doesn't get a certified letter. Now I know we can

1 point to the statute and say this is what's the law
2 requires and so forth. You know, we heard a lot of that in
3 the past too, the Commission has. People get very jealous,
4 if that's the right word, of their neighbors getting a
5 certified letter but they didn't get one even though it's
6 in the paper. I understand that.

7 CHAIRMAN HADDOCK: Kevin -- are these
8 certified letters, do you know if they have a template --
9 not Kevin, Mike. Do they have a template that is followed
10 that is a suggested template that would actually point out
11 the reason you're receiving this is because?

12 MR. LARSEN: I'm not aware that there is a --
13 there used to be some sort of a template.

14 DIRECTOR MOHAMMADI: There is a template.

15 CHAIRMAN HADDOCK: Could it include some of
16 that language basically stating that you are receiving this
17 because you are considered a first tier? Would that be
18 helpful for at least when it's shared, they can say oh, I
19 might not be considered. They are still going to have
20 questions just like Commissioner Larsen had mentioned, but
21 maybe it could be helpful that it would at least try to
22 explain itself in that section. As far as to say that
23 consider the mine a like and if your property is being cast
24 in the shadow of another property, et cetera but it's
25 confusing.

1 MR. LARSEN: Well, I guess it would be an
2 explanation as to why the next door neighbor didn't get one
3 or the property behind who did receive the letter.

4 MR. RUDLOFF: It's my understanding that the
5 program does communicate with the individuals that express
6 an interest in the permit.

7 MR. LARSEN: I'm sure they did. All right.
8 Just speaking from history, that always used to come up
9 when he got a certified letter and we didn't get one. Not
10 that that's a reason to deny a permit, but it was just made
11 for kind of bad feelings I think.

12 MR. LARSEN: We will make sure it's clarified,
13 Mr. Chairman, in notification.

14 CHAIRMAN HADDOCK: Okay. That would be
15 helpful.

16 MR. RUDLOFF: I agree it's an improvement. It
17 really is. At least now certified letters will go out
18 provided there is a property owner within the half mile.
19 So that is an improvement.

20 MR. RUDLOFF: Well, I guess to the industries
21 credit too, we did realize the issues with the way the law
22 was written previously. We did see, along with the
23 program, the need for an improvement. I guess if down the
24 road a problem continues to exist, we can always talk about
25 it and maybe come up with a solution at that point.

1 MR. LARSEN: The only example I can think of
2 at the moment if there is a group of property owners
3 involved and in rural areas that generally doesn't apply.
4 In metropolitan areas it probably would. Thank you,
5 Steven.

6 CHAIRMAN HADDOCK: Any other questions for Mr.
7 Rudloff? Thank you very much. Is there anyone else who
8 would like to speak on behalf of the proposed rulemaking?
9 Are there any statements from Commission members that want
10 to be held within the this formal hearing portion of the
11 meeting? Hearing none, I move to the closing statement
12 then.

13 I will now read a closing statement for Item
14 No. 4, our public hearing. The Commission will receive
15 written testimony on the proposed rule changes until 5:00
16 p.m. October 26, 2015. You may submit written testimony to
17 Director Kevin Mohammadi, Missouri Department of Natural
18 Resources, Land Reclamation Program, P.O. Box 176,
19 Jefferson City, Missouri 65102 prior to that deadline.

20 On behalf of the Commission, I thank everyone
21 who has participated in the process. This hearing is now
22 closed.

23 (Hearing concluded at 9:25 a.m.)

24

25

PUBLIC HEARING 10/19/2015

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MIDWEST LITIGATION SERVICES

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Summary of Industrial Mineral Bond Release Requests Approved by the Staff Director

Agenda Item #5

Ashley Harrison, Non-Coal Unit, reported on this agenda item to the Commission. There was no action required by the Commission. This summary was provided for the Commission's information. The Commission thanked her for her report.

GIS Shaft Database Demonstration

Agenda Item #6

Daniel Wedemeyer, Abandoned Mine Land Unit, presented to the Commission a demonstration of the new GIS Shaft Database that will soon be added to the Abandoned Mine Lands Viewer on the LRP website. There was no action required by the Commission. The Commission thanked him for his demonstration.

Abandoned Mined Lands Status Update

Agenda Item #7

Greg Snellen, Abandoned Mine Land Unit, reported on this agenda item. Mr. Snellen gave a brief overview of the projects the Abandoned Mine Land Unit is working on. There was no action required by the Commission. The Commission thanked him for his report.

OTHER

Approval of the 2016 Commission Meeting Dates

Agenda Item #8

The following MMC meeting dates for 2016 were brought to the Commission; January 28, March 24, May 26, July 28, September 22 and November 17. Vice Chairman Larsen made a motion to approve the July 27, 2016 Commission Meeting Dates with Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Gillman: yes

Commissioner Madras: yes

Vice Chairman Larsen: yes

Chairman Haddock: yes

The motion passed with 4 yes votes.

Comments from the Public

Agenda Item # 9

None

ADJOURNMENT OF MEETING

A motion was made by Commissioner Gillman to adjourn the meeting. Vice Chairman Larsen seconded the motion. A voice vote was taken and the motion passed unanimously.

The meeting adjourned at 9:55 a.m.

Respectfully submitted,

Chairman

DRAFT