

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION**

In the Matter of:)) AA QUARRY LLC) AA Quarry Site # 2462) Johnson County, Missouri,) New Site Permit Application)) DAVID EARLS,) CREIGHTON & DIANE COX,) SCOTT & DIANNE GARD,) TAMMY HEIDER,) BRAD & JESSICA MANTZEY,) JAMES & SUSAN RICHARDS,) ROBERT & LIESL SNYDER,) TIM STAMM,)) <p style="text-align: center;"><i>Petitioners,</i></p>)) v.)) DEPT. OF NATURAL RESOURCES,) KEVIN MOHAMMADI,) Staff Director,) Land Reclamation Program,) Division of Environmental Quality,) <p style="text-align: center;"><i>Respondent,</i></p>)) AA QUARRY LLC.,) <p style="text-align: center;"><i>Applicant,</i></p>))	Proceeding Under The Land Reclamation Act, Sections 444.760 – 444.789, RSMo Permit # 1094
--	--

REVISED ORDER FOR SUBMISSION OF EVIDENCE

The Order for Submission of Evidence issued February 20, 2014 is revised as follows:

Revised Exchange Schedule	
Action	Date Due
Completion of Discovery	4-15-14
Petitioners' Filing and Exchange of Exhibits and Narrative Testimony Statements	5-9-14

Applicant's and Respondent's Filing and Exchange of Exhibits and Narrative Testimony Statements	5-30-14
Objections and Rebuttal Exhibits	6-20-14
Responses to Objections and Surrebuttal Exhibits	7-11-14

Revised Exchange Procedure

1. Exhibits. Each party shall file with the Hearing Officer the original of all exhibits to be used in its case in chief and serve a copy upon opposing counsels and Pro Se Petitioners. Exhibits shall be filed in hardcopy, not as email attachments. Documents which establish uncontested material facts are to be filed with the Hearing Officer and served upon opposing counsels and Pro Set Petitioners, but need not be numbered or lettered for identification purposes.¹ The Hearing Officer will mark them for identification as they relate to a given uncontested material fact or facts and will provide a detail listing to all parties.

Applicant's Exhibits shall be marked with the abbreviation AP and numbers beginning with the number 1 in sequence; that is AP-1, AP-2 etc.

Respondent's Exhibits shall be marked with the abbreviation RP and numbers beginning with the number 1 in sequence; that is RP-1, RP-2 etc.

Petitioners' Exhibits shall be marked with the last name of the given Petitioner and letters beginning with the letter A in sequence; that is for example, Earls – A; Earls – B, etc.; Cox – A, Cox – B and so on for each Petitioner tendering exhibits to establish their claims. For any exhibits that will be used by all Petitioners, those exhibits are to be marked by the abbreviation PR and letters beginning with the letter A in sequence; that is PR-A, PR-B etc.

Any documents not filed and exchanged as exhibits as herein order shall not be admitted into the evidentiary record at hearing, except upon good cause shown as to why the document could not have been obtained, and filed and exchanged as ordered.

Exhibits filed with the Hearing Officer and retained by the Land Reclamation Commission are to be no larger than 8½ by 11 inches, although for purposes of demonstrations at the hearing, the parties may use larger copies of the submitted exhibits. Exhibits which consist of photographs must be affixed to or copied on 8½ by 11 inch paper, and each photograph must be identified in a brief statement on the face or back of the exhibit setting forth the date on which the photograph was taken, person who took the photograph and what the photograph purports to represent.

2. Narrative Testimony Statement. Each party shall file with the Commission the original of the Narrative Testimony Statement (*Statement*) of each witness expected to be called for the party's case in chief, and serve a copy upon opposing counsel and Pro Se Petitioners. Each Statement shall be typed on 8½ by 11 inch paper, pages to be numbered. The Statement shall be signed by the witness, but it is not required that it be notarized. The Statement for each witness shall be filed in hardcopy, not as email attachments. The purpose of the Statement is to provide the Hearing Officer and each party a summary of the expected testimony for each witness so that the parties are informed of the evidence to be tendered in the case. Each Statement shall present in narrative a summary of the direct testimony to be presented by the witness at the hearing. Testimony at the hearing will be presented in the normal fashion for an administrative hearing or civil trial. The Statements will not be marked as

exhibits in advance of the hearing and will not be received into evidence except upon motion at hearing.

3. Objections and Rebuttal Exhibits. Objections to opposing party's introduction of exhibits, and rebuttal exhibits shall be filed with the Hearing Officer. A copy of said objections and/or rebuttal exhibits shall be served upon opposing counsel and Pro Se Petitioners. Any documents not filed and exchanged as rebuttal exhibits as herein order shall not be admitted into the evidentiary record at hearing, except upon good cause shown as to why the document could not have been obtained, and filed and exchanged as ordered.

4. Responses to Objections and Surrebuttal Exhibits. Responses to objections and surrebuttal exhibits shall be filed with the Hearing Officer. A copy of said responses to objections and/or surrebuttal exhibits shall be served upon opposing counsel and Pro Se Petitioners. Any documents not filed and exchanged as surrebuttal exhibits as herein order shall not be admitted into the evidentiary record at hearing, except upon good cause shown as to why the document could not have been obtained, and filed and exchanged as ordered.

5. Procedure at the Formal Public Hearing. At the Formal Public Hearing, the witnesses for a party's case in chief will be presented and after being sworn in shall provide their direct testimony and be subject to cross-examination, redirect, etc. as the testimony may require.

6. Failure to File and Exchange Narrative Testimony Statement. Any party failing to file and exchange Narrative Testimony Statement(s) for the witness(es) for their

direct case will be deemed to have abandoned their claim in the proceeding and to have withdrawn as a party to the proceeding.

SO ORDERED: April 1, 2014.

MISSOURI DEPARTMENT OF NATURAL RESOURCES

A handwritten signature in black ink, appearing to read "W. B. Tichenor". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W. B. Tichenor, DNR – Hearing Officer
3710 Shadow Glen Ct.
Columbia, MO 65203-4844
wbtichenor@gmail.com
573-864-4549 cell
573-751-1712 (o)
573-751-1341 FAX

Certification of Service

I hereby certify a copy of foregoing has been sent via email this 1st day of April, 2014, to:

Attorneys:

David L. Zeiler, Attorney for Petitioners Snyder, dzeiler@zeilerlawfirm.net

G. Steven Ruprecht, Attorney for Applicant: sruprecht@brlawkc.com

Tim Duggan, Assistant Attorney General, Attorney for Respondent: tim.duggan@ago.mo.gov

Daren Eppley, Assistant Attorney General, Attorney Land Reclamation Program:

Daren.Eppley@ago.mo.gov

Pro Se Petitioners:

David Earls: david.earls46@gmail.com;

Tim Stamm: tstamm11@gmail.com;

Creighton Cox: pastorcreighton@hotmail.com;

Diane Cox: ddabc123@embarqmail.com;

Tammy Heider: Tammy.Heider@mcckc.edu;

James & Susan Richards: adiamondhorse@aol.com;

Dianne & Scott Gard: gard.dianne@gmail.com

Brad Mantzey: bdmantzey@gmail.com

Jessica Mantzey: rboofer07@gmail.com

DNR-LRC Staff:

Kevin Mohammadi, Staff Director, LRP, Respondent: Kevin.Mohammadi@dnr.mo.gov

Lauren Cole, Program & Commission Secretary: lauren.cole@dnr.mo.gov



W. B. Tichenor

DNR – Hearing Officer

¹ Documents to establish uncontested material facts would be those uncontested facts set forth in the Order Setting Uncontested Material Facts, dtd 1/13/14.