

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

In the Matter of:)	
)	
AA QUARRY LLC)	Proceeding Under
AA Quarry Site # 2462)	The Land Reclamation Act,
Johnson County, Missouri,)	Sections 444.760 – 444.789, RSMo
New Site Permit Application)	
)	
DAVID EARLS, et al,)	
<i>Petitioners,</i>)	
)	
v.)	Permit # 1094
)	
DEPT. OF NATURAL RESOURCES,)	
KEVIN MOHAMMADI,)	
Staff Director,)	
Land Reclamation Program,)	
Division of Environmental Quality,)	
<i>Respondent,</i>)	
)	
AA QUARRY LLC.,)	
<i>Applicant,</i>)	
)	

**ORDER DENYING ENTRY OF APPEARANCE ON BEHALF OF
JOHN D. & LEANN N. ORTNER**

FACTS AND CONCLUSIONS OF LAW

1. Walter R. Simpson filed his Entry of Appearance on behalf of John D & Leann N. Ortner on July 9, 2013. The Ortner sought status as Petitioners based upon their letter of April 29, 2012 mailed on April 30, 2013, delivered to addressee (*Land Reclamation Commission, P. O. Box 176, Jefferson City, MO 65102-0176*) on 5/1/13.
2. Entry of Appearance was taken under advisement and Respondent and Applicant were given opportunity to make response.
3. Respondent and Applicant filed Suggestions Opposing Adding John D. and Leann N. Ortner as Petitioners on 7/19/13.
4. 10 CSR 40-10.080 (1) (F) provides:

“If the public meeting does not resolve the concerns expressed by the petitioner, then only the petitioner(s) who has requested a public meeting or hearing during the public comment period referred to in subsection (1) (A) of this rule, may, within thirty days after the director renders a recommendation to the commission on the application, make a written request to the Land Reclamation Commission for a formal public hearings.”

5. The deadline for public comment in this case closed on January 26, 2013. A person who failed to request a meeting by that date failed to meet the deadline. *Zeaman Affidavit to Respondent's Suggestions*.
6. The Ortner's did not request a public meeting by January 26, 2013, therefore, they did not reserve the right to request a hearing during the time period from April 2, 2013 – May 2, 2013. This being the thirty day time period, after the Notice of Recommendation issued April 2, 2013, as established by 10 CSR 40-10.080 (1) (F).

ORDER

John D. and Leann N. Ortner do not have standing as petitioners under 10 CSR 40-10.080 (1) (F), accordingly the Entry of Appearance of Walter R. Simpson, as Attorney for the Ortner's, is denied.

SO ORDERED July 20, 2013.

MISSOURI DEPARTMENT OF NATURAL RESOURCES



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Certification of Service

I hereby certify a copy of foregoing has been sent via email this 20th day of July, 2013, to:

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W. B. Tichenor, DNR – Hearing Officer