

**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 Pro Se,</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 REQUEST FOR SUSPENSION OF HEARING PROCESS

Correspondence to the Hearing Officer

Petitioners Pro Se are informed and instructed that it is necessary when they correspond with the Hearing Officer, via email or USPS mail, requesting action on the part of the Hearing Officer in the pending Matter, or seeking to inform the Hearing Officer relative to the pending Matter, that the respective counsels for the Respondent and Applicant must be copied otherwise such correspondence is an ex parte communication with the Hearing Officer, which is not permitted.

Earls' Email – 7/10/13 – Request for Suspension of Hearing Process

The Hearing Officer received an email correspondence at 9:30 pm – 7/10/13 from Petitioner Pro Se – David Earls. Counsel for Applicant and Counsel for Respondent were not copied on said email. Mr. Earls requested the hearing process be suspended until

such time as the documents pertaining to the 404 violation become available. Mr. Earls asserted that without such documents it is impossible for him to adequately prepare his pleading on this issue.

Request Denied

Request for suspension of the hearing process is denied.

The requirement that Petitioners file pleadings is so that the Hearing Officer, Applicant and Respondent may be informed of the specific grounds on which an individual Petitioner believes that his or her health, safety or livelihood will be unduly impaired by impacts from the quarrying operation if Permit #1094 is granted. It is not necessary for the pleadings to set out supposed “evidence” on an issue to be raised.

With respect to the matter of the 404 Notice of Violation, the Hearing Officer is aware that Bill Zeaman, Mo. DNR, Unit Chief, LRP, reported (*Attachment I, Director’s Recommendation, dtd 4/2/13*) “... that the United States Corps of Engineers has issued a Notice of Violation for Code of Federal Regulation Section 404 at the proposed quarry site” The Hearing Officer is unaware of what type of violations may be noticed under the Code of Federal Regulations Section 404. The Hearing Officer is aware that the Code of Federal Regulations can easily be accessed via the Internet.

If a Petitioner deems that an asserted violation of Section 404 is ground to establish that his or her health, safety or livelihood will be unduly impaired by impacts from the issuance of Permit #1094, such an allegation may be made in the pleading without the need of knowing at this stage what is involved in the alleged Section 404 Notice of Violation issued.

If a Petitioner deems that an asserted violation of Section 404 is ground to demonstrating a pattern of noncompliance suggesting a reasonable likelihood of future acts of noncompliance, such an allegation may be made in the pleading without the need of knowing at this stage what is involved in the alleged Section 404 Notice of Violation issued.

It is sufficient that a Petitioner wishes to assert either of these matters as a ground for denial of the permit and by simply so stating in his or her pleading to present the issue to the Hearing Officer, Applicant and Respondent. Not knowing specific details of the Notice of Violation is not sufficient grounds to interrupt and delay the current

proceedings.

SO ORDERED July 11, 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 11th day of July, 2013, to:

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