



2. Admit ¶ that MDNR is a state agency created by Article IV, ¶ 47 of the Missouri Constitution. Deny that MDNR “supervises” the Land Reclamation Commission. Section 640.010.6, RSMo, speaks for itself.

3. Admit ¶ 3.

4. Admit ¶ 4.

5. Admit ¶ 5.

6. Admit ¶ 6.

7. Admit ¶ 7.

8. Admit ¶ 8.

9. Admit ¶ 9. Further answering, § 444.773, RSMo, does not require permit applicants to hold public meetings.

10. Admit ¶ 10.

11. Admit ¶ 11.

12. Respondent states § 444.773, RSMo, speaks for itself, and no answer is required. To the extent an answer is required, Defendants state that § 444.773.3, RSMo, states in pertinent part: “If the public meeting does not resolve the concerns of the public, any person whose health, safety or livelihood will be unduly impaired by the issuance of such permit may make a written request to the land reclamation commission for a formal public hearing. The land reclamation commission may grant a public hearing to formally resolve concerns of the public.”

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13. Respondent states that the recording of the January 27, 2011 meeting speaks for itself. To the extent not specifically admitted, Respondents deny the allegations of ¶ 13. Further answering, any alleged statements or events from the January 27, 2011 meeting are outside the scope of the record on appeal and are therefore irrelevant to this proceeding and any allegations regarding same should be stricken from the pleadings.

14. Respondent states that the recording of the January 27, 2011 meeting speaks for itself. To the extent not specifically admitted, Respondents deny the allegations of ¶ 14. Further answering, any alleged statements or events from the January 27, 2011 meeting are outside the scope of the record on appeal and are therefore irrelevant to this proceeding and any allegations regarding same should be stricken from the pleadings.

15. The minutes of the Missouri Land Reclamation's February 7, 2011 meeting are the best evidence of the Commission's decision. Respondents deny any allegation that is inconsistent with the specific content of such minutes.

16. Admit ¶ 16.

17. Admit ¶ 17.

18. House Bill 89 and § 444.771, RSMo, speak for themselves.

19. Admit ¶ 19.

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20. Respondents state that Exhibit 1 speaks for itself. To the extent not specifically admitted, Respondents deny ¶ 20.

21. Respondents states that Exhibit 2 speaks for itself. To the extent not specifically admitted, Respondents deny ¶ 21.

22. Paragraph 22 sets forth legal conclusions and to that extent no answer is required. Respondents deny any factual allegations in ¶ 22.

23. Respondents reallege and incorporate by reference their responses to the allegations in paragraphs 1 through 22.

24. Respondents state that Exhibit 1 speaks for itself. To the extent not specifically admitted, Respondents deny ¶ 24.

25. Paragraph 25 sets forth legal conclusions and to that extent an answer is not required. Respondents deny any factual allegations in ¶ 22.

26. Respondents state that § 260.225.5(7), RSMo, speaks for itself and an answer is not required. To the extent not specifically admitted herein, the allegations of ¶ 26 are denied.

27. Respondents state that § 260.295.2, RSMo, speaks for itself and an answer is not required. To the extent not specifically admitted herein, the allegations of ¶ 27 are denied.

28. Respondents state that § 643.075.2, RSMo, speaks for itself and an answer is not required. To the extent not specifically admitted herein, the allegations of ¶ 28 are denied.

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29. Respondents state that § 644.051.3, RSMo speaks for itself and an answer is not required. To the extent not specifically admitted herein, the allegations of § 29 are denied.

30. Paragraph 30 sets forth legal conclusions and an answer is not required. Respondents deny any factual allegations in ¶ 30.

31. Deny ¶ 31.

32. Admit ¶ 32.

33. Respondents reallege and incorporate by reference their responses to the allegations in paragraphs 1 through 32.

34. Admit ¶ 34, but correcting Petitioner's citation, which should be 10 CSR 40-10.020(2)(A).5.

35. Admit ¶ 35, but correcting Petitioner's citation, which should be 10 CSR 40-10.020(2)(H).

36. Respondents state that 10 CSR 40-10.020(2)(H) speaks for itself. Respondents deny any factual allegation in ¶ 36.

37. Admit ¶ 37.

38. Admit ¶ 38.

39. Deny that the Commission's action "unilateral." Admit the remainder of ¶ 39.

40. Paragraph 40 sets forth legal conclusions and no answer is required. Respondents deny any factual allegation in ¶ 40.

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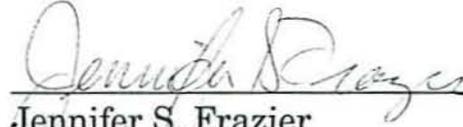
41. Deny ¶ 41.

WHEREFORE, state respondents pray for an order affirming the Commission's decision and denying all relief requested in the petition.

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Respectfully submitted,

**CHRIS KOSTER**  
ATTORNEY GENERAL



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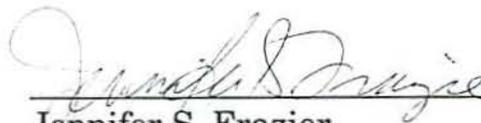
ATTORNEYS FOR THE STATE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was sent via first class mail, postage prepaid, this 1<sup>st</sup> day of December, 2011.

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