

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

In the Matter of:	)	
	)	
AA QUARRY LLC	)	Proceeding Under
AA Quarry Site # 2462	)	Land Reclamation Act,
Johnson County, Missouri,	)	§§ 444.760–444.790 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,	)	
<i>Respondent,</i>	)	
	)	
AA QUARRY LLC,	)	
<i>Applicant,</i>	)	

**RESPONDENT’S SUGGESTIONS OPPOSING ADDING  
JOHN D. AND LEANN N. ORTNER AS PETITIONERS**

Respondent opposes allowing John D. and Leann N. Ortner to join this action as petitioners because they did not timely ask for a public meeting. That request is a condition for later requesting a formal public hearing under the rules promulgated by the Land Reclamation Commission. In support of this filing, Respondent encloses an affidavit by Bill Zeaman with attachments. As Mr. Zeaman explains, if the public meeting did not resolve the public’s concerns,

only a person who had requested the meeting or hearing during the public comment period may, within thirty days after issuance of the Staff Director's Notice of Recommendation, request a hearing. This limitation is imposed by 10 CSR 40-10.080(1)(F), which 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 (30) 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 hearing.

As Mr. Zeaman explains, the opportunity for public comment in this case closed on January 26, 2013. A person who did not request a meeting by 11:59:59 PM on January 26<sup>th</sup> failed to meet the deadline. The Ortners did not request a public meeting within the time allowed. (Mr. Zeaman provides a list of persons who did, and the Ortners do not appear on it.)

Therefore, in accordance with 10 CSR 40-10.080(F), the Ortners did not reserve the right to request a hearing during the 30-day window

that ran from April 2, 2013 – May 2, 2013 11:59:59 PM, following the Staff Director's Notice of Recommendation issued April 2, 2013.

Mr. Zeaman asserts that the Land Reclamation Program has always read the regulation as it was applied in this case. The rule should be applied consistently because the plain language allows no exceptions.

WHEREFORE, Respondent suggests that the Hearing Officer not allow the Ortners to join the other petitioners who did preserve the right to request a hearing under the regulation.

Respectfully submitted,

**CHRIS KOSTER**  
Attorney General



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Timothy P. Duggan  
Assistant Attorney General  
Missouri Bar No 27827  
P.O. Box 899  
Jefferson City, MO 65102  
Phone: 573-751-9802  
Fax: (573) 751-8796  
Email: tim.duggan@ago.mo.gov  
ATTORNEYS FOR RESPONDENT

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

In the Matter of:	)	
	)	
AA QUARRY LLC	)	Proceeding Under
AA Quarry Site # 2462	)	Land Reclamation Act,
Johnson County, Missouri,	)	§§ 444.760–444.790 RSMo
New Site Permit Application	)	
	)	
DAVID EARLS, LORRI ADAMS,	)	
CREIGHTON & DIANE COX,	)	
MISTY & DARREN CUTRIGHT,	)	
SCOTT & DIANNE GARD,	)	
LEEANN & JESS HAMILTON,	)	
TAMMY HEIDER, LAURA JONES,	)	
BRAD AND JESSICA MANTZEY,	)	
LAURIE & JAMES MARTIN,	)	
JAMES & SUSAN RICHARDS,	)	
ROBERT & LIESL SNYDER,	)	
TIM STAMM,	)	
	)	
<i>Petitioners,</i>	)	
	)	
v.	)	Permit # 1094
	)	
DEPT. OF NATURAL RESOURCES,	)	
KEVIN MOHAMMADI,	)	
Staff Director,	)	
Land Reclamation Program,	)	
<i>Respondent,</i>	)	
	)	
AA QUARRY LLC,	)	
<i>Applicant,</i>	)	

**AFFIDAVIT OF BILL ZEAMAN**

1. I, Bill Zeaman, am employed by the Land Reclamation Program  
as Chief of the Non-Coal Unit.

2. The first attachment, titled "AA Quarry Mailing List" is all of the people who requested a public meeting in this matter. The first comment period during the running of the public notice began on December 20, 2012 and the last running was January 10, 2013. There was an additional 15 days after January 10<sup>th</sup> that closed on January 26<sup>th</sup>, 2013. Essentially, if a person did not request a meeting by 11:59:59 PM on January 26<sup>th</sup> that person did not meet the first public notice cutoff deadline.

3. We then held a public meeting on March 7, 2013. The meeting was delayed two times: once because of Ash Wednesday and the other cancellation was due to a 12" snowfall event. After the meeting we had 30 days to produce a Staff Director's Notice of Recommendation and Attachment 1. Director Mohammadi signed the Staff Director's Notice of Recommendation on April 2, 2013.

4. 10 CSR 40-10.080(1)(F) reads:

(F) 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 (30) 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 hearing.

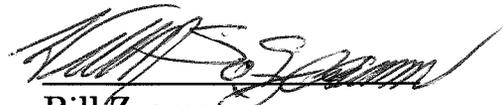
5. We have always interpreted this rule to mean that if a person requests a meeting or hearing during the initial public notice comment period, then that person reserved a right to request a hearing after the public meeting which is 30-days after issuance of the Staff Director's Notice of Recommendation, if the public meeting did not resolve concerns of the public.

6. If it would help, I can provide the hearing officer a scanned version of all of the letters we received prior to January 26, 2013.

7. The second list, consisting of two pages titled "Persons requesting a public hearing" ending with names of ADD Scott & Dianne Gard are the people who requested a hearing between April 2 and May 2, 2013.

8. The Ortners did not request a public meeting prior to the January 26, 2013 comment period deadline, therefore in accordance with 10 CSR 40-10.080(F) they did not reserve the right to request a hearing during the 30-day window that ran from April 2, 2013 – May 2, 2013 11:59:59 PM following the Staff Director's Notice of Recommendation.

State of Missouri        )  
                                  ) ss  
\_\_\_\_\_ County        )

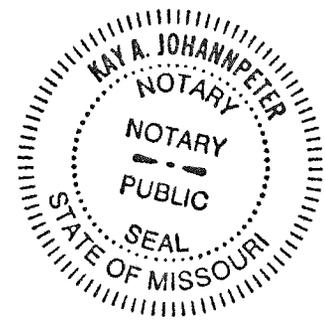
  
Bill Zeaman

Subscribed and sworn to before me on this 15<sup>th</sup> day of July, 2013.



Notary Public  
My commission expires:

KAY A. JOHANNPETER  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Cole County  
My Commission Expires July 1, 2015  
Commission # 1181967



## **AA Quarry Mailing List**

Christian & Julie Kincheloe  
1873 NW 260th Rd.  
Kingsville, MO 64061

Kyle Stout  
1883 NW 260th Rd.  
Kingsville, MO 64061

Tim & Lorrie McKiddy  
1971 NW 370<sup>th</sup>  
Kingsville, MO 64061

Fred & Veronica Carlton  
283 NW AA Hwy.  
Kingsville, MO 64061

Jan & David Beller  
1877 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Creighton & Elizabeth Diane Cox  
1884 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

PJ Kelley  
1874 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061  
(816) 720-8078

Phil Edmoundson  
1874 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061  
(816) 720-8078

James Copple  
1897 NW 255<sup>th</sup> Rd.  
Kingsville, MO 64061

Kevin & Pamela Freese  
281 NW AA Hwy.  
Kingsville, MO 64061

Bob & Debbie Endicott  
1890 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Tim & Carol McClellan  
1878 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Dane, Vicki & Arthur Ross  
1876 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Jamie & Patrick Aswegan  
1888 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Maria V. & Maria E. Dias  
1886 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Scott & Dianne Gard  
448 NW 1851 Rd.  
Kingsville, MO 64061

Rhonda & Dave Carver  
1879 NW 255<sup>th</sup> Rd.  
Kingsville, MO 64061

Carl & Dianna Roberts  
NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Signed Petition but listed no address: Steve Buschhorn  
No address only cell phone #816-564-5097

Marsha Beck  
No address only Cell Phone #816-714-8102

Emily Sweeney did not sign the petition but has called us concerning this quarry proposal. Emily Sweeney – (816) 838-7444/330 NW 1771st Rd., Kingsville, MO 64061

David Earls  
444 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

John L. West  
1843 NW 600 Rd.  
Kingsville, MO 64061  
(816) 697-2416

Joyce & Don Sherer  
437 NW 1851 Rd.  
Kingsville, MO 64061  
(816) 697-3544

Carolyn S. Price  
1841 NW 515<sup>th</sup> Rd.  
Kingsville, MO 64061

Tim E. Stamm  
1920 NW 500<sup>th</sup> Rd.  
Kingsville, MO 64061  
(816) 697-3880

Mona R. Price  
1841 NW 515<sup>th</sup> Rd.  
Kingsville, MO 64061

Nancy Horton & Ted Elrod  
561 NW 1891<sup>st</sup> Rd.  
Kingsville, MO 64061  
(816) 506-1816

Jeff & Deneane Neathery  
1765 NW 380<sup>th</sup> Rd.  
Kingsville, MO 64061  
(913) 707-6527 – Jeff    (816) 896-4552 – Deneane

Ralph E. Janes  
396 NW AA Hwy.  
Kingsville, MO 64061  
(816) 566-0554

Nancy & Theodore Hoffman  
459 NW AA Hwy.  
Kingsville, MO 64061  
(816) 697-1839

Diane & Creighton Cox  
1884 NW 260 Rd.  
Kingsville, MO 64061  
(816) 597-0116

Franklin Hobbs  
291 NW 1771 Rd.  
Kingsville, MO 64061

Laurie Martin  
370 NW 1771 Rd.  
Kingsville, MO 64061  
(816) 697-3314  
[Laurie.dawn@yahoo.com](mailto:Laurie.dawn@yahoo.com)

Darrin & Misty Cutright  
405 NW AA Hwy  
Kingsville, MO 64061  
(816) 315-7024

Fred & Veronica Carlton  
283 NW AA Hwy  
Kingsville, MO 64061  
(816)-797-7669

Jason & Megan Irr  
1926 NW 460 Rd.  
Kingsville, MO 64061  
J - (774) 259-0424  
M- (913) 406-4971

Bernie & Paula Baker  
378 NW 1771 Rd.  
Kingsville, MO 64061  
(816) 365-9172

Jim Martin  
370 NW 1771 Rd.  
Kingsville, MO 64061  
(816) 697-3314

Mario & Maria Dias  
1886 NW 260 Rd.  
Kingsville, MO 64061  
(816) 597-0186

Doris Wilson  
290 NW AA Hwy  
Kingsville, MO 64061

Kelley M. Tietsort  
403 NW AA Hwy  
Kingsville, MO 64061

Connie Kohler  
390 NW 1771 Rd.  
Kingsville, MO 64061  
(816) 419-7924

Randy & Clara Cravens  
1844 NW 530 Rd.  
Kingsville, MO 64061  
(816) 566-0125

Gary D. Williams  
1741 NW 450 Rd.  
Kingsville, MO 64061  
(816) 377-1995

Liesl & Robert Snyder  
276 NW AA Hwy  
Kingsville, MO 64061  
(816) 896-5474

Cynthia Fannin  
1770 NW 380 Rd.  
Kingsville, MO 64061

Jess & Lee Ann Hamilton  
378 NW 1851 Rd.  
Kingsville, MO 64061  
(816) 697-8866

Joyce Rogge  
420 NW 1771 Rd.  
Kingsville, MO 64061  
(816) 769-8310 – C  
(816) 697-6676 – H

Alan & Debbra Swaim  
1845 NW 515 Rd.  
Kingsville, MO 64061

Richard Hill  
570 NW 1891 Rd.  
Kingsville, MO 64601

Ken and Debbie Frost  
454 NW 1901 Rd.  
Kingsville, MO 64061

Reginald and Barbra Nelson  
1840 NW 600 Rd.  
Kingsville, MO 64061  
(816) 699-3835

David and Mary Earls  
444 NW 1851 Rd.  
Kingsville, MO 64061  
(816) 566-9852

Sam & Nancy Kallsnick  
1961 NW 500 Rd.  
Kingsville, MO 64061

Jerry and Linda Carroll  
1768 NW 380 Rd.  
Kingsville, MO 64061  
(816) 392-4235

William and Anita Myers  
395 NW 1851 Rd.  
Kingsville, MO 64061  
(816) 566-9886

Dennis and Cheryl Kidwell  
412 NW 1821  
Kingsville, MO 64061  
(816) 697-3873

Rhonda Angell  
511 NW 1891 Rd.  
Kingsville, MO 64061  
(816) 566-0574

William and Jennifer McCoy  
388 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061  
816-304-3535

Dan Martin  
360 NW 1771 Rd.  
Kingsville, MO 64061  
913-927-1673

Lorri Adams  
389 NW 1851 Rd.  
Kingsville, MO 64061

Randy & Linda McCanville  
1825 NW 530<sup>th</sup> Rd.  
Kingsville, MO 64061  
816-985-3643

James & Susan Richards  
408 NW AA Hwy.  
Kingsville, MO 64061  
816-697-4040

Brad & Jessica Mantzey  
407 NW AA Hwy.  
Kingsville, MO 64061

**Received on or after 01 28 2013 bz entered data**

William Standish  
423 NW 1771 Rd.  
Kingsville, MO 64061

Marsha Trayford  
423 NW 1771 Rd.  
Kingsville, MO 64061

Bill & Pam Woodworth  
538 NW 1751 Rd.  
Kingsville, MO 64061

Laura Jones  
1836 NW 530 Rd.  
Kingsville, MO 64061

Annetta Lindsay  
1888 NW 200 Rd.  
Kingsville, MO 64061

Steven & Karen Collins  
1906 NW 550 Rd.  
Kingsville, MO 64061

Michael & Peggy Williams  
1987 NW 415 Rd.  
Kingsville, MO 64061

Martha Gicante  
274 NW AA Highway  
Kingsville, MO 64061

Q&R Bargains  
Annetta Lindsay  
1894 NW 200 Rd.  
Kingsville, MO 64061

Terry Brand  
1744 NW 450 Rd.  
Kingsville, MO 64061

Linda Anderson  
516 NW 1891 Rd.  
Kingsville, MO 64061

William D. Moore  
1740 NW 450 Rd.  
Kingsville, MO 64061

Linda Burton  
1776 NW 200 Rd.  
Kingsville, MO 64061

Michael Hudson  
440 NW AA Hwy  
Kingsville, MO 64061

Mrs. Tammy Heider  
1740 NW 450 Rd.  
Kingsville, MO 64061

Thomas & Kathleen Page  
421 NW 1851 Rd.  
Kingsville, MO 64061

Russell Gard  
1610 NW 1851 Rd.  
Kingsville, MO 64061

James Kytile  
1781 NW 200 Rd.  
Kingsville, MO 64061

Phillip & Pamela Benn  
540 NW AA Hwy  
Kingsville, MO 64061

Cary Brown  
382 NW 1851 Rd.  
Kingsville, MO 64061

Todd A. & Stephanie Wright  
288 NW 1771 Rd.  
Kingsville, MO 64061

Melanie Jurell  
288 NW 1771 Rd.  
Kingsville, MO 64061

John, Tara & Jennifer Toczek  
435 NW AA Hwy  
Kingsville, MO 64061

Kyle & Rhonda Stout  
1883 NW 260 Rd.  
Kingsville, MO 64061

Alan Snyder  
278 NW AA Hwy  
Kingsville, MO 64061

Norris & Vickie Kytle  
311 NW 1771 Rd.  
Kingsville, MO 64061

Douglas Anderson  
516 NW 1891 Rd.  
Kingsville, MO 64061

Sam & Nancy Kallsnick  
1961 NW 500 Rd.  
Kingsville, MO 64061

Tim & Robin Seek  
1776 NW 450 Rd.  
Kingsville, MO 64061

Kevin & Pam Freese  
281 NW AA Hwy  
Kingsville, MO 64061

Beverly Cline  
255 NW 1771 Rd.  
Kingsville, MO 64061

John & Linda Burns  
1847 NW 530 Rd.  
Kingsville, MO 64061

Melvin & Linda Brillhart  
1821 NW 200 Rd.  
Kingsville, MO 64061

Norman & Alice Riggs  
436 NW 1771 Rd.  
Kingsville, MO 64061

Dolie M. Toczek  
435 NW AA Highway  
Kingsville, MO 64061

Judith & Marvin Yawakie  
1801 NW 530 Rd.  
Kingsville, MO 64061

Jason D. Jones  
441 NW AA Hwy  
Kingsville, MO 64061

Kristi Hudson  
440 NW AA Highway  
Kingsville, MO 64061

**Received 01/28/2013 entered by TF**

Steven & Karen Collins  
1906 NW 550 Rd.  
Kingsville, MO 64061

**Received 01/29/2013**

Emma J. Riggs (same address as Norman and Alice)  
436 NW 1771 Street  
Kingsville, MO 64061

Chloe Snyder  
278 NW AA Hwy.  
Kingsville, MO 64061

Todd & Susan Sexton  
398 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

Received 02/01/2013 bz

Hilary & Susan Jenkins  
417 NW 1851 Rd.  
Kingsville, MO 64061

Wayne & Denyse Crowe  
529 NW AA Hwy  
Kingsville, MO 64061

Received 02 04 2013 bz entered

Michael & Lisa Bright  
271 NW 1771  
Kingsville, MO 64061

David Earls  
444 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

Misty & Darren Cutright  
405 NW AA Highway  
Kingsville, MO 64061

LeeAnn Hamilton  
Jess Hamilton  
378 NW 1851 Rd  
Kingsville, Mo. 64061

Laura Jones  
1826 NW 530th Road  
Kingsville, MO 64061

Randy and Clara Cravens  
1844 NW 530 Rd.  
Kingsville, MO 64061

Robert and Liesl Snyder  
276 NW AA Hwy  
Kingsville, MO 64061

Laurie and James Martin  
370 NW 1771 Rd.  
Kingsville, MO 64061

Tim Stamm  
1920 NW 500<sup>th</sup> Road  
Kingsville, MO 64061

Creighton and Diane Cox  
1884 NW 260<sup>th</sup> Road  
Kingsville, MO 64061

Tammy Heider  
1740 NW 450 Road  
Kingsville, MO 64061

Lorri Adams  
389 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

Kyle Stout  
1883 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Brad & Jessica Mantzey  
407 NW AA Hwy.  
Kingsville, MO 64061

James & Susan Richards  
408 NW AA Hwy.  
Kingsville, MO 64061

Linda Burton  
1776 NW 200 Rd  
Kingsville, MO 64061

Cary Brown  
382 NW 1851 Road  
Kingsville, MO 64061

ADD

Scott & Dianne Gard  
448 NW 1851 Road  
Kingsville, MO 64061  
816-566-0519

Persons requesting a public hearing.

David Earls  
444 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

Misty & Darren Cutright  
405 NW AA Highway  
Kingsville, MO 64061

LeeAnn Hamilton  
Jess Hamilton  
378 NW 1851 Rd  
Kingsville, Mo. 64061

Laura Jones  
1826 NW 530th Road  
Kingsville, MO 64061

Randy and Clara Cravens  
1844 NW 530 Rd.  
Kingsville, MO 64061

Robert and Liesl Snyder  
276 NW AA Hwy  
Kingsville, MO 64061

Laurie and James Martin  
370 NW 1771 Rd.  
Kingsville, MO 64061

Tim Stamm  
1920 NW 500<sup>th</sup> Road  
Kingsville, MO 64061

Creighton and Diane Cox  
1884 NW 260<sup>th</sup> Road  
Kingsville, MO 64061

Tammy Heider  
1740 NW 450 Road  
Kingsville, MO 64061

Lorri Adams  
389 NW 1851<sup>st</sup> Rd.  
Kingsville, MO 64061

Kyle Stout  
1883 NW 260<sup>th</sup> Rd.  
Kingsville, MO 64061

Brad & Jessica Mantzey  
407 NW AA Hwy.  
Kingsville, MO 64061

James & Susan Richards  
408 NW AA Hwy.  
Kingsville, MO 64061

Linda Burton  
1776 NW 200 Rd  
Kingsville, MO 64061

Cary Brown  
382 NW 1851 Road  
Kingsville, MO 64061

ADD

Scott & Dianne Gard  
448 NW 1851 Road  
Kingsville, MO 64061  
816-566-0519

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was either electronically mailed or mailed via US Mail, this 19th day of July, 2013

to:

G. Steve Ruprecht  
[sruprecht@brlawkc.com](mailto:sruprecht@brlawkc.com)

Daren R. Eppley  
[Daren.eppley@ago.mo.gov](mailto:Daren.eppley@ago.mo.gov)

David L. Zeiler  
[dzeiler@zeilerlawfirm.net](mailto:dzeiler@zeilerlawfirm.net)

Kevin Mohammadi  
[Kevin.mohammadi@dnr.mo.gov](mailto:Kevin.mohammadi@dnr.mo.gov)

Brad & Jessica Mantze  
[Rboofer07@gmail.com](mailto:Rboofer07@gmail.com)

W.B. Tichenor  
[wbtichenor@gmail.com](mailto:wbtichenor@gmail.com)

Walter R. Simpson  
Sanders & Simpson  
10401 Holmes Rd., Ste. 490  
Kansas City, MO 64131

  
\_\_\_\_\_  
Timothy P. Duggan  
Assistant Attorney General