

## AREA RESIDENTS VOICE OBJECTIONS TO MINING PERMIT Opponents say proposed operation is threat to aquifer, environment

By John A. Small  
News Editor  
Johnston County Capital-Democrat, Tishomingo

(Originally published in the Capital-Democrat on Dec. 9, 2010)

In the eyes of Tishomingo resident Linda Hogan, the issue was as simple as black and white.

Standing before representatives of both the Oklahoma Department of Mines and Arbuckle Aggregates LLC, Hogan declared that the establishment of another rock mining facility in the Mill Creek area would be “a premeditated crime against the environment.”

Hogan was one of a number of area residents who spoke out against Arbuckle Aggregates’ plan to launch such an operation during what ODM organizers called an “informal conference” regarding an application filed with the ODM by the company, which is seeking a permit for surface mining in 575 acres near Mill Creek.

The conference, which lasted roughly three and a half hours, was held Thursday, Dec. 2, at Murray State College’s Fletcher Auditorium in Tishomingo. A crowd estimated between 100 to 150 turned out for the event, of which just under 30 registered to make presentations opposing the proposed mining operation.

ODM representative Bret Sholer served as moderator, and on several occasions throughout the meeting reminded attendees that the event was strictly informal and that no decisions would be made that day.

“We are here to listen,” Sholar said several times during the meeting.

Nonetheless, the event often took the tone of a legal proceeding, particularly at the beginning when Arbuckle Aggregates’ attorney took the podium.

Edmond attorney Elizabeth Nichols opened the discussion with a presentation in which she explained the legal mechanism by which mining companies apply for permits with the ODM and other state agencies. Nichols stated on several occasions during her appearance that Arbuckle Aggregates’ permit application is “administratively complete and technically correct.”

Nichols also stated more than once that company representatives had read all of the protest letters forwarded to the ODM with regards to the proposed quarry, and that Arbuckle Aggregates “is committed” to working with the community with regards to concerns on water usage and conservation.

On several occasions, however, she spoke of the project in terms indicating that the permit application had already been approved – a fact that did not escape the notice of many in the audience.

Among those was Johnston County Commissioner Roy Wayne Blevins, who several days after the meeting observed that many in the audience appeared disheartened by Nichols’ comments.

“She (Nichols) kept saying ‘when’ the quarry goes into operation, instead of ‘if,’” Blevins stated during Monday’s meeting of the Johnston County Board of Commissioners. “It made some people wonder whether this was already a done deal.”

Nichols’ presentation was followed by an appearance by Peter Dawson, president of Arbuckle Aggregates, who opened by providing a brief history of the company. Dawson then explained the nature of the proposed

Mill Creek project, essentially repeating information he first shared during an appearance before the board of commissioners earlier this year.

Dawson stated that the company has purchased a total of 582 acres of land located along Highway 1/7 and Holder and Frisco Roads, near the existing Martin Marietta Materials mining operation. He said that Arbuckle Aggregates has applied for a permit for use of approximately 578 acres of the property to be used for the proposed facility.

He added that the company has also leased 950 acres for use of both surface water and ground water, and stated that the company plans to construct the infrastructure needed to make the proposed quarry operational. Dawson also stated that he expects the facility will use both trucks and railroad transport to deliver materials mined at the facility.

Like Nichols before him, Dawson also stated that the company is committed to incorporating public concerns regarding the proposed operation in its business plans.

“I believe that everything we are going to do from a planning, development and operational perspective will be protective of the environment, and will not be detrimental to the aquifer either from a depletion perspective or a pollution perspective,” he told those in attendance.

It was clear from their comments, however, that those who came to speak out against the project did not put much stock in such corporate pledges.

Area attorney Laurie Ann Williams, whose family owns property adjacent to the proposed Arbuckle Aggregates operation, was one of several protesters who openly questioned – or in some cases even mocked – Dawson’s claims that the company was endeavoring to act like a “good neighbor.”

Noting that last week’s meeting happened to fall on the 40th anniversary of the establishment of the Environmental Protection Agency, Williams called upon ODM officials to commit to “another momentous event” by rejecting Arbuckle Aggregates’ permit application.

“This is the most ill-conceived plan I have ever seen,” Williams said. “It’s okay to say ‘no.’”

Her comments were echoed by several members of the Citizens for the Protection of the Arbuckle-Simpson Aquifer (CPASA), as well as by CPASA attorney Jason Armodt who stated that the project could cause irreparable harm to the head waters of both Mill Creek and Pennington Creek.

Armodt also raised the issue of human health and welfare concerns, noting that the aquifer is the only source of drinking water for thousands of residents in the area. He added that the project would also prove harmful to local property values and efforts to promote tourism, stating that the mine would have “detrimental effects on the aesthetic quality of the area.”

Tishomingo Mayor Lewis Parkhill also focused on Pennington Creek’s status as the city’s sole source of water, adding that the city “benefits both socially and economically” from the presence of several attractions and operations that depend on the creek for their operations. Among those locations cited by Parkhill were the Tishomingo National Wildlife Refuge, Tishomingo Golf Course, and the Tishomingo National Fish Hatchery.

Several of those speaking against the project raised the issue of higher tax revenues being seen in Texas and other locations where aggregates are shipped and sold than in Johnston County, where it is being produced. Among those was Mill Creek resident Clyde Runyan, who said he would prefer not to see any new such operations open locally.

“We don’t want any more mines in our area,” Runyan said. “We don’t need any more mines in our area. As far as I’m concerned they’re simply raping the land and taking all the benefits to Texas.”

Similar comments were made by Hogan and by Randy Fullagar of Mill Creek, who became openly emotional during her presentation. Fullagar accused mining operations of turning a blind eye to the needs and concerns of residents, and told Sholar that the OMD’s responsibility should be to the citizens and not the corporations.

“Frankly it shocks me and it angers me that any corporate entity ignores the interests of the people,” Fullagar said. “It’s not even moral to presume that your corporate needs outweighs ours.”

“They aren’t interested in our well-being. What are we supposed to do when all of the water is gone? You can’t put it back.”

Also expressing concerns on moral grounds was Tishomingo resident Gloria Webb, who objected to the principle of “might makes right” which she said had led to such dark incidents in history as the Trail of Tears.

Several who own properties on or near the aquifer – including Johnston County residents Phil Converse, Shannon Shirley and Fred Chapman, as well as Dan Rose of Ardmore and Ada resident Carlisle Hill – cited concerns about the possible depletion of the aquifer. Chapman said the area’s streams were a primary factor in his family’s decision to locate here from Texas in the late 1800s.

“People in this area realize that water is vital for our existence,” Chapman said. “(But) we’re losing water every day because of these quarries.”

In joining his voice to those calling for the ODM to reject Arbuckle Aggregates’ permit application, Chapman went a step further and called upon state legislators to pass a law that would put an end to mining operations on or near the Arbuckle-Simpson Aquifer.

Two of those legislators were present for the conference. State Rep. Paul Roan (D-Tishomingo) – who along with former Senator Jay Paul Gumm spearheaded the passage of Senate Bill 288, the landmark 2003 legislation which imposed a moratorium on temporary groundwater permits to pump groundwater from the aquifer – was among those who called for the ODM to reject the permit application.

Roan cited concerns that the proposed operation could deplete or contaminate Pennington Creek and have a negative impact on the fish hatchery and wildlife refuge.

Gumm’s successor as state senator for District 6, Josh Brecheen (R-Coalgate), also spoke but stopped short of openly calling for the ODM to reject the permit application. Instead Brecheen simply asked that the commission look at the situation “delicately” and said the situation was an opportunity for the ODM to prove that it was not merely a “rubber stamp.”

Others calling for the permit application to be rejected included CPASA President Amy Ford; and representatives of the National Park Service, U.S. Fish and Wildlife Service, Oklahoma Department of Wildlife Conservation, and the Ada City Council; as well as other CPASA members and private residents from across the area.

Following a short break, Sholar allowed the Arbuckle Aggregates team to respond to the comments made by protesters. Nichols and Dawson essentially repeated their comments from earlier in the day; but Geoff Canty, Ph.d., environmental consultant for Arbuckle Aggregates, responded to the concerns expressed by Parkhill and Roan by stating that the mine would not be within Pennington Creek’s watershed.

Canty – who is the director of environmental services for EST Inc., an engineering firm headquartered in

Norman – also rejected claims that the mining operation would have a negative impact on the aquifer’s regeneration rates.

He stated at one point that the Arbuckle Aggregates mine would have “lesser impacts than those created by the municipalities that are using the aquifer.”

At the conclusion of the event, Sholar told those present that he would be submitting a recommendation to the ODM board regarding Arbuckle Aggregates’ application.

But he also stressed that he would not make a quick recommendation, and would give the case “all the merit it deserves.”

Sholar added that the record for last week’s conference would remain open until Jan. 14, to allow for the submission of documentation or other exhibits relative to the case that were not available during Thursday’s meeting.

Sholar also stated that within 30 days after the applicant is notified of ODM’s decision regarding the permit application, the applicant or any person with an interest which may be adversely affected may request a hearing on the reasons for the decision. That administrative hearing would be on the record and adjudicatory in nature.

Action of the administrative hearing if called for is subject to judicial review.

(Copyright 2010 by the Johnston County Publishing Company)