Toward Successful Permitting of Mineral Aggregate Operations

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ABSTRACT

Obtaining a permit to develop a new mineral reserve from which mineral aggregate can be manufactured is a long and complex process. The producer must coordinate data and efforts of many outside experts and of his own company personnel to assure that all required information is presented. First, however, a site that will have minimal environmental problems must be selected. Then all potential environmental problems associated with operating that site and the means of mitigating any such problems should be determined. Talking with permitting agencies early in the permitting process is important. Usually, talking with people who live nearby to describe who the operating people are, where else they operate, and what they hope to do is also important. In most cases public hearings will be required, and it is usually necessary for presentations of experts to be integrated and coordinated. This can often be done by an attorney, preferably one who is familiar to local people, who has a good reputation, and who understands the local ordinances and the permitting process. An extremely important component of a presentation is for the company to be able to demonstrate that at other locations at which they operate they have already put into practice the sorts of things that they plan at the new operation. Even if all steps are taken carefully and skillfully and with sensitivity to the local population's feelings, there is no assurance of success in obtaining a mining permit, because the results of public hearings are not predictable. But if the producing company touches all required bases, the chances of success increase enormously.

The purpose of this paper is to review and distill the permitting experiences and knowledge of four mineral aggregate producers and a lawyer who have been successful in obtaining permits to operate aggregate deposits. In most cases the permitting process involved requesting changes in zoning ordinances of town or county political bodies that act in a quasijudicial capacity.

Some aspects of quarry siting and the sort of information that may be required by producers seeking permits are discussed. Some techniques for presentation of producers' information are suggested, and the nature of the public hearing process is described. The authors presented papers at the January 16, 1984, Annual Meeting of the TRB Symposium on Reducing Constraints on Mineral Aggregate Development, and their papers have been integrated here.

SITE SELECTION

The first requisite for getting a permit to operate is the selection of a suitable site where permitting problems will be minimal. Location is dictated by geology, transportation, and market of a region, and often there may be several alternative sites within a region where those parameters are suitable. Other factors being equal, the best sites are likely to be remote from population centers and should have a population with low or moderate income because the economic benefits from an operation would be more important to them. A site that is not highly visible and has haul routes passing through a minimum number of densely populated areas is also ideal. Sites that fit all these requisites are becoming rare, particularly in the more populous states.

No site is so remote, however, that some people will not find problems with it. For example, Flatiron Sand and Gravel Company in the Denver area observed that in each case the major objection to permitting mining operations had been truck traffic. Flatiron totally eliminated the need for gravel trucks on public roads by choosing a site that was on the main line of a major railroad, thereby allowing the stone to be shipped by rail. In addition, the area around the site had one of the lowest population densities in the county. The site was not visible from the nearest developed area, which was more than 4 miles away on the opposite side of the mountain from the quarry. Although this site would seem ideal, Flatiron has not yet been successful in getting a permit after 2 years of trying.

Proper site selection is extremely important, but it does not by itself assure success in permitting.

PUBLIC EDUCATION

Most producers of mineral aggregate who have been successful in obtaining permits to mine have found that a program of public education was necessary. The general public has many apprehensions about mining operations in its vicinity. The people may be concerned about truck traffic, dust, noise, ground vibrations, or scenic changes, or they may wonder about the impact of an operation on wildlife, groundwater, property values, or their own quality of life. Some concerns are based on misconceptions, some problems may be real but can be mitigated, and some other problems exist and may be difficult to minimize. It is generally the producer who must educate his neighbors about the potential impacts of his operation--both positive and negative.

In the education process the main thing that the public should understand is that the producer is sensitive to public feelings and concerns. If this does not come across, chances of obtaining a mining permit are probably minimal.

It is mandatory also to communicate and cooperate with local officials who are involved with the permitting process. In addition, working closely

with the local media is an important part of educating the public.

In some states the public education process may be taken care of, in theory, by the environmental impact statement (EIS). This will be discussed later in the papers by Banino and Hellert and by Reining. Where an EIS is not required, the public education process will require the equivalent of an EIS to answer all of the questions that may be asked.

Some points commonly addressed by a producer are as follows: days and hours of operation; blasting hours; blasting safety, including total pounds of explosives per shot and per delay, and security and location of explosive storage; locations of truck entrances and exits; seismic monitoring; dust control; stockpile and equipment height; and air quality monitoring.

The public should be informed about the nature of any (a) entrance beautification plans; (b) green belts (buffers between property lines and disturbed areas); (c) fencing (location and specifications); (d) lines of sight relative to plant and stockpiles; (e) quarry and plant location as related to both reserves and neighbors, including phasing of the pit size and periodic relocation of plant conveyors and crushing equipment; and (f) truck wash system for highway trucks.

In addition, for presentation purposes, some producers have found the following to be helpful: (a) a scaled model of the quarry facility and surrounding area; (b) slides and drawings showing typical operations and beautification plans of entrances; (c) colored drawings demonstrating operational concepts; and (d) tours of existing operations (if applicable) for zoning officials, neighbors, politicians, and interested citizens.

Information is transmitted by documents (i.e., EIS), company personnel, or outside experts at hearings to individuals or small groups or to local media. Many producers have found that presentations at hearings are best made by lawyers because they are likely to be experienced speakers and are likely to be knowledgeable about the problems. Luck Quarries, Inc., is careful to select a lawyer with a good reputation, good local credibility, and knowledge about local zoning boards. Vulcan Materials Company stresses the value of an attorney who specializes in land use, where such a person is available.

Usually written or oral presentations may also be made by a quarry superintendent or manager who can discuss operations and personnel; by a company officer who can describe financial implications for a community; by an environmental control manager or equivalent who can explain about such things as control of dust, noise, erosion, and drainage; by a blasting expert who can explain how blasting is done; by a seismologist who explains the effects of blasting; and by a hydrologist who can discuss the impact of the operation on surface and subsurface waters. A geologist, ecologist, landscape architect, engineer, planner, real estate appraiser, or other professional may be useful or necessary under some circumstances.

Often such professionals as lawyers, site engineers, planners, geologists, landscape architects, or public relations specialists coordinate the data-gathering and dissemination processes.

Company personnel have found it of value to talk to local people individually or in small groups well in advance of any significant activity at a site. In this case the personality of the individual is critical, because he must both understand and clearly project sympathy with local concerns. This individual could be a public relations specialist, sometimes a quarry superintendent or company officer, or perhaps a lawyer hired by the company.

TRACK RECORD

What a company is, where else it operates, and what else it does should all be explained to the local people. A record of reliability, stability, and concern has been found to be invaluable, because good public relations consist of good deeds followed by good words. In this case, it means that companies with other operations should be certain that those operations demonstrate their expressed intentions at the new operation. Most people will consider that a company's past record is the best indication of what it might do in the future.

Luck Quarries found that letters from local officials at other communities where they operate, stating satisfaction in its manner of operation, were valuable. In one case the company obtained a petition from homeowners in a subdivision near one of its operations showing local support and substantiating its claim to being a good neighbor. Luck Quarries also found that color photographs of its other operations showing, in particular, attractive, landscaped entrances, clean yards, and well-maintained buildings can be helpful. Vulcan Materials has found that an ongoing community relations program at its operations is valuable, and that contributions to various charitable or other community projects in the form of personnel, equipment, products, or money can demonstrate a good neighbor policy.

THE HEARING PROCESS

Before a permitting application for mineral aggregate mining is submitted, a company's energy has been devoted to gathering hard data about the potential effects of the proposed operation in order to meet the various requirements of the rezoning process. Once all of the data have been collected, analyzed, assembled, and submitted to the appropriate agency or agencies, the company's energy and efforts shift from the factual to the political.

A permitting request is usually made to a municipality or county, whichever has local jurisdiction in the permitting process. Ultimately, the decision regarding a new mining operation is political, as opposed to strictly legal. Thus the hearing process is quasi-judicial, and standard rules of evidence and judicial decorum may or may not exist.

In some cases companies have found that public hearings are fairly routine. The local public and their political representatives may be satisfied that the operation will be beneficial or have no significant negative impacts. Under such conditions the public hearing room may be a lonesome place, populated only by company representatives and hearing personnel. When this situation occurs, companies have usually followed the guidelines outlined in the previous pages. As was noted, however, following guidelines is not a guarantee for success. Most operations have found that there has to be an element of luck as well as skill.

More often public hearings devoted to obtaining a permit to mine mineral aggregate are difficult, even when a producing company has taken heroic measures far beyond those required for most businesses. By nature, producers of mineral aggregates are generally doers, builders, and action oriented. Debate and public presentations in the frequently emotional environment of public hearings are not their strengths. Often their virtues--virtues that are

needed to build our world--become a handicap in the emotional world that Naisbitt (1) calls "participatory democracy." Unfortunately, participants in democratic hearings are often as limited in their capacity to deal with complex technical aspects of mineral extraction as are the technicians in dealing with emotion and politics.

SUMMARY

Obtaining a permit to operate a new mineral aggregate resource is a complex process requiring a good company record and reputation, along with a site that has a minimum number of potential environmental problems. A carefully integrated plan for obtaining and summarizing information and for presenting that information to the public is essential in order to reduce problems at public hearings. If the whole process is executed well, and if there is a little luck as to the nature of the local population, a public hearing may go smoothly and a permit to mine may be granted.

Is there any suggested course of action in the event luck is not with the applicant?

REFERENCE

1. J. Naisbitt. Megatrends. Warner Books, Inc., New York, 1982.

Public Hearings and the Mine Permitting Process

JAMES R. DUNN and MICHAEL J. HART

ABSTRACT

Few situations are more difficult for the mineral aggregates producer than public hearings. By nature most mineral producers are men of action, and debating and politics are not normally their greatest strengths. Yet supplying mineral aggregates for construction, so critical to the welfare and economy of the people of the United States, must be carried out by mineral producers in an environment that is intensely political and often highly emotional. This environment tends to evolve toward a polarized atmosphere in which decisions in the true public interest may be virtually impossible. The cost to the United States of not managing or mismanaging mineral resources is enormous, and can be measured in billions of dollars per year.

The euphoria that mineral producers feel after a happily uneventful public hearing is not common, because uneventful public hearings for mining permits are not common. How the environment of public hearings commonly evolves is described in this paper. Some estimates of the cost of this environment in terms of the general public are summarized, and some possibilities for reducing the magnitude of such problems are proposed.

This paper also serves as an introduction to two papers that review the approaches to solve problems of mineral resource development and the environment that were taken in California and New York.

PUBLIC HEARING ENVIRONMENT

The public hearing is the essence of "participatory democracy" as defined by Naisbitt in his book "Megatrends" (1). Yet the effect of the public hearings process may not be truly democratic, in that the participants often represent an insignificant proportion of the populace. There is considerable doubt that the general public is well served by the process, with respect to mineral aggregate production. It is not clear that the local people potentially affected by an aggregate operation are well served or in agreement with decisions based on the hearing process, or that regional aspects of mineral planning have ever been considered. A short review of the hearing environment is instructive.

Those who participate in the hearing are most often the people who strongly oppose the permit that is the subject of the hearings. Moderates often do not attend, do not speak up if present, and do not follow the process through to its conclusion.

Michael J. Hart of Flatiron Materials Company has suggested that opposition to a permit or zoning change tends to have an evolutionary pattern. Initially people meet because of what they visualize as a potential threat to their quality of life. Many of the people simply wish to be informed about the facts. Gradually, those who conclude that they will not be affected drop out of the opposition group. As time goes by the group often tends to become radicalized or polarized; that is, those who could be described as opposed, yet willing to work toward a solution acceptable to all, ultimately drop from or are driven from the group by the hard-core opposition.

The radicalization or polarization process is far from being restricted to hearings involving mine permits, and motivations may be quite unselfish. To cite a parallel example, hearings involving evalua-