

June 17, 2010

DENR Public Hearing.

The following is the text of my complete presentation I had planned to present as a public record at the DENR Public Hearing in Waynesville, NC on June 16th, 2010 at 7pm at the Old Courthouse on the permit expansion for the Harrison Construction Company.

The hearing officer determined that speakers will be allowed five (5) minutes, and I was only able to get through about half of my presentation before my time was called.

Monroe A. Miller Jr.

DENR Public Hearing Comments
June 16, 2010

My name is Monroe A. Miller Jr., I live at 19 Big Spruce Lane, Waynesville.

I'm having difficulty understanding the purpose of this hearing. I'm going to address what my understanding is, what's happening right now at the quarry, and where do we go from here.

I took aerial photos of the quarry last Wednesday from Jerry Smiths airplane, so that I could get a better understanding of what was going on. I've provided you with one of the photos to show you what is happening here now. As soon as the hearing is concluded, Marty Stamey, the Assistant County Manager, will turn the video projection system on and let people see this photo.

[Take a moment to discuss some of the features of the slide...]

1. Major slide area
2. Gigantic Rock on far side of slide
3. Black water streak and far end of slide
4. slide debris in lower area
5. slide debris blocking access
6. upper triangle of cleared area near top of ridge
7. area on both sides of imaginary ridge line.

I wrote a letter to Janet Boyer, a professional engineer, at the DENR Asheville office on May 25th with two simple questions:

- Do you and DENR know what Harrison Construction Company is doing to repair the slide?, and,
- If you are familiar with the slide that occurred at the Harrison Construction Company quarry, are there any other viable methods of repair to insure the safety of the workers that does not involve destroying the ridge line?

I spoke to Janet Boyer the week before last, and she was not able to answer my concerns. She directed me to Judy Wehner, who processes the applications for new DENR permits in Raleigh. Judy Wehner was not able to answer by concerns, and directed me to ask Don Mason of Harrison Construction Company. That resulted in Todd Quigg, President of Harrison Construction Company contacting me and extending an invitation to visit him at his Knoxville office last Thursday.

Todd Quigg presented photographs of the quarry before and immediately after the land slide that occurred on March 12th, 2009. The landslide that is shown in my photo is virtually untouched (except for natural weathering) from the picture Todd Quigg presented immediately after the landslide occurred.

In one of his "before" pictures, Todd Quigg had parked his brand new red GMC pick-em-up truck at what is now under the major slide area. No one knew a slide was going to take place, and I'm convinced that Todd Quigg would not have parked his brand new red truck there, let alone have his people working in that area, if he had any idea a slide was about to occur.

A couple of days after the event, the slide was investigated by Dai S. Choi, a civil engineer with the US Department of Labor's Mine Safety and Health Administration. That resulted in a report, #MW09-028. I've included copies of this report for Jim Simons. The report contained Background, the Field Investigation, Discussion, Conclusion, and Recommendation. Choi speculated that there were three (3) causes for the slide:

- The presence of a joint running parallel to and dipping slightly towards the face,
- Water infiltration into the joints, and
- Being subjected to freeze-thaw cycles, all contributing to the rock slide.

The recommendations included:

- The mining plan should be changed to mine material from the upper-most benches near the property boundary,
- Since local geological conditions are quite complicated ..., the company should hire a geologic consultant to map discontinuities, detect and analyze potential failure planes and monitor any slope movements,
- The company's future expansion as well as slide area rehabilitation plans should be submitted to the District for review. A rehabilitation plan of the slide area should include only day time working hours as well as a monitoring system to watch for slope instability. Suitable safety benches and slope angles should be designed based on a site specific analysis that incorporates the current field conditions.

Todd Quigg indicated that from the Harrison Construction Company perspective, they have complied with all three recommendations.

Wait a minute!

What does all this mean?

From the expert Harrison Construction Company has hired, the last two causes - that water intrusion and freeze thaw "contributed" to this failure is purely speculation by Dai Choi at this point. No one will really know what caused the slide until earth is removed and the fault can be analyzed.

This genius, Dai Choi, won't allow Harrison Construction Company to touch any rock involved with the slide. Any work to remedy the slide must be from the top down. If a Harrison Construction Company employee touches a rock, he will be thrown in jail.

What is the only alternative?

Clear it from the top down, as stated in Choi's first recommendation.

But wait! Looking at the original before and after photos of the slide, the uppermost part of cleared area to work was the ridge line, the actual currently permitted boundary of the quarry. In order to begin the work of clearing, they have to cut a new road to get above the slide area. The only way to do that is to start dropping the ridge line in the very area that this whole meeting is about, the area specified in the new permit application.

They are already working the area!

How can this be?

Simple, this genius, Dai Choi of the Mine Safety and Health Administration overrides Jim Simons, the director of DENR. The work that Harrison Construction Company is doing now is visible to everyone. All of this work is being done without the benefit of Jim Simons reviewing any of the facts and concerns of citizens present at this public hearing and being able to apply any of the law of the Mining Act of 1971.

Well, that answers my first question to Janet Boyer: Do you and DENR know what Harrison Construction Company is doing to repair the slide?

Looking at my aerial photograph, take a look at the debris field from the slide. "How do you get to the back area of the quarry to mine gravel?", I asked Todd Quigg. "We don't", he replied. "What?!!!", I asked. "Doesn't that impact your ability to generate revenue?". "Yep", he replied.

What are the alternate solutions (the second concern I had originally asked Janet Boyer)? Todd Quigg considered a possibility of "bridging" the slide to gain access to the back bench (floor area). This does not remedy the slide, but does allow access. However, it is risky and certainly does not allow for clearing the slide, only bypasses it.

So far, this has all been about this genius, Dai Choi, writing a report and forcing his opinion on how to go about repairing this slide. However, he has not provided any specific written guidance on how to do it.

Why?

Because no one knows what lies under the ridge which this genius has ordered to be taken down to get to the slide material. So there is no culpability on Choi's part if things go wrong.

Additionally, at some point, someone from the Mine Safety and Health Administration verbally suggested that Harrison Construction Company divert the water run-off over the other side of the ridge, down towards Michael Rogers spring head and his and the Gunters homes. Harrison objected. Todd Quigg said they currently are controlling all run off that occurs in disturbed areas in order to ensure sedimentation is controlled.

It does not appear that the genius Dai Choi had given any consideration to the effect any of his directive would cause to residents on the other side of the ridge.

So I'm really trying to figure out what this Public Hearing is all about. Jim Simons appears to have been trumped by the genius Dai Choi.

If Jim Simons now goes through all the input from this Public Hearing, and that might take a little bit of time, - look at all of the people here - time marches on. The Harrison Construction Company will be busily implementing the directive set forth by the genius. If Jim Simons decides that, based on input received here and applying the law, that there is cause to deny the permit, so what?

The damage will have been done. He will most likely figure, well, the damage is done, so I might as well grant the permit.

This is insane.

What would I do?

I would look to the State of Arizona for guidance. Arizona has had a problem with Illegal Immigration, but they have a strong Governor, Jan Brewer, who guided legislation to implement a process to deal with the immigration problem that the federal government cannot and is not taking care of. They are basically channeling power back into the State.

I believe what needs to happen, and pretty soon, is that someone here needs to give Bev Perdue, our Governor, a phone call, so that she can summon into her office the following people and have a chat:

- Jim Simons, the Director of DENR,
- Dai Choi, the genius from the Mine Safety and Health Administration,
- Hilda L. Solis, the United States Secretary of Labor, that would be Dai Choi's boss,

and

- Todd Quigg, President of Harrison Construction Company. He believes that there are 5-10 qualified firms across the nation who have geologists with experience in fault associated slides and failures that would be a necessity at such a discussion.

I'm here today because I was asked by the Gunters to help them convince the Director of DENR to deny the permit expansion. It is **ironic** that I felt that the only person to be able to check and verify my comments today was Todd Quigg, the President of Harrison Construction Company - **the applicant of the permit expansion himself!**

The astounding thing was that he responded to my request.

I made copies of my original Draft presentation that Todd Quigg marked for his comment, along with his response(s), and am including those with the copies of the other material and photo I've submitted for Jim Simons consideration.

This should be **screaming** to everyone present at this hearing **that when** the applicant himself, Todd Quigg, is assisting me to stay accurate in working to deny the permit expansion, that we have a hell of a problem going on here. This is all going sideways.

Someone needs to make the phone call.

I appreciate your allowing time for me to express my concerns.

Thank you.

