

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE, EX REL. MISSOURI PARKS ASSOCIATION,
VILLAGE OF ARROW ROCK AND FRIENDS OF ARROW ROCK**

RESPONDENTS,

v.

**MISSOURI DEPARTMENT OF NATIONAL RESOURCES, ET AL.,
MISSOURI FARM BUREAU FEDERATION, MISSOURI CATTLEMEN'S
ASSOCIATION, MISSOURI DAIRY ASSOCIATION, MISSOURI PORK
PRODUCERS ASSOCIATION, AND MISSOURI EGG COUNCIL**

APPELLANTS.

DOCKET NUMBER WD70564 Consolidated with WD70565 and WD70787
DATE: April 6, 2010

Appeal From:

Cole County Circuit Court
The Honorable Patricia S. Joyce, Judge

Appellate Judges:

Division Four: Thomas H. Newton, Chief Judge, Presiding, James M. Smart, Jr., Judge and
Cynthia L. Martin, Judge

Attorneys:

Richard W. Miller, Kansas City, MO, for respondents.

Timothy P. Duggan, Jefferson City, MO; Dana L. Frese, Jefferson City, MO; Robert J. Brundage
and Mark W. Comley, Jefferson City, MO, for appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE, EX REL. MISSOURI PARKS ASSOCIATION, VILLAGE OF ARROW ROCK
AND FRIENDS OF ARROW ROCK,**

APPELLANTS,

v.

**MISSOURI DEPARTMENT OF NATIONAL RESOURCES, ET AL., MISSOURI FARM
BUREAU FEDERATION, MISSOURI CATTLEMEN'S ASSOCIATION, MISSOURI
DAIRY ASSOCIATION, MISSOURI PORK PRODUCERS ASSOCIATION, AND
MISSOURI EGG COUNCIL,**

RESPONDENTS.

No. WD70564 Consolidated with WD70565 and WD70787
Cole County

Before Division Four: Thomas H. Newton, Chief Judge, Presiding, James M. Smart, Jr., Judge
and Cynthia L. Martin, Judge

The Missouri Department of Natural Resources and its Director ("DNR") appeal the trial court's grant of summary judgment in favor of Missouri Parks Association, the Village of Arrow Rock, and Friends of Arrow Rock (collectively "MPA"). Missouri Farm Bureau Federation, Missouri Cattlemen's Association, Missouri Dairy Association, Missouri Pork Producers Association, and Missouri Egg Council appeal the trial court's denial of their motions to intervene and the trial court's grant of summary judgment.

DNR contends: (1) the matter the trial court was asked to address was moot at the time of entry of the judgment from which this appeal is taken; (2) the trial court's judgment is advisory or hypothetical because it adjudicates future controversies and permits for which no one has applied; (3) the trial court's judgment usurps statutes that specifically govern air pollution control, concentrated animal feeding operations permitting, and use of manure in crop fields; (4) the matter addressed by the trial court's judgment was not ripe because MPA did not exhaust available administrative remedies; and (5) the use of admissions to the detriment of nonparties is not authorized by Supreme Court Rule 59.01.

The proposed intervenors allege that the trial court erred in: (1) denying their respective motion's to intervene; (2) entering the judgment because the matter before the trial court was moot; (3) entering the judgment because administrative remedies were not exhausted; (4) entering a judgment that exceeds the relief initially requested and that affects the rights of nonparties; and (5) establishing a buffer radius that directly contradicts section 640.710.2.

Judgment vacated and underlying matter dismissed.

The subject matter of MPA's petition was moot at the time the trial court entered its Second Amended Judgment. There was no justiciable controversy warranting the entry of a declaratory judgment or a writ of mandamus, rendering the Second Amended Judgment an improper advisory opinion. The Second Amended Judgment improperly declared and affected the rights of nonparties not before the court. The Second Amended Judgment improperly addressed matters which were the subject of unexhausted administrative remedies.

This summary is UNOFFICIAL and should not be quoted or cited.