

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

---

COMPLETE TITLE OF CASE:

STRACK EXCAVATING, L.L.C.,

Appellant

v.

MISSOURI DEPARTMENT OF NATURAL RESOURCES, LAND RECLAMATION  
COMMISSION, SAXONY LUTHERAN HIGH SCHOOL.

Respondents

---

DOCKET NUMBER WD78015

DATE: APRIL 28, 2015

---

Appeal From:

Circuit Court of Cole County, MO  
The Honorable Patricia Joyce, Judge

---

Appellate Judges:

Division Three  
Mark D. Pfeiffer, PJ., Gary D. Witt, Anthony Rex Gabbert, JJ

---

Attorneys:

Timothy Duggan, Jefferson City, MO,

Counsel for Appellant

---

Attorneys:

Stephen Jeffery, Bruce Morrison, Ellisville, MO

Counsel for Respondents

---

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STRACK EXCAVATING, L.L.C.,**

**Appellant,**

**v.**

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

**Respondent,**

**SAXONY LUTHERAN HIGH SCHOOL,**

**Respondent.**

**WD78015**

**Cole County**

Before Division Three Judges: Mark D. Pfeiffer, PJ., Gary D. Witt, Anthony Rex Gabbert, JJ

Strack Excavating, L.L.C. (“Strack”) appeals the circuit court’s judgment dismissing its declaratory judgment action. Strack argues that the trial court erred in dismissing its declaratory judgment action. Strack contends that its challenge to § 444.771, RSMo Cum. Supp. 2011, presents a justiciable controversy which is ripe and which is not subject to the administrative exhaustion doctrine.

**AFFIRM.**

**Division Three holds:**

The trial court did not error in dismissing Strack’s petition for lack of jurisdiction because Strack failed to establish a justiciable controversy and failed to exhaust its administrative remedies.

Opinion by Anthony Rex Gabbert, Judge

Date:4/28/15

\*\*\*\*\*

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**