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INTERIM COMMITTEE STUDIES USE OF EMINENT DOMAIN – A House interim committee, created by the Speaker of the House to review the use of eminent domain in Missouri, recently began a series of public meetings to study the state’s eminent domain powers as defined in Missouri’s statutes. Approximately 80 people attended the first public meeting in Linn on Monday, Oct. 20.

MoDOT’s Director of Right of Way Terry Sampson presented testimony during the hearing.

Members of the House Interim Committee on Eminent Domain include: Representatives Merrill Townley, R-Chamois); Walt Bivins, R-St. Louis; Mike Dethrow, R-Alton; Curt Dougherty, R-Independence; Belinda Harris, D-Hillsboro; Steve Hobbs, R-Mexico; John Quinn, R-Chillicothe; Todd Smith, R-Sedalia; Jim Whorton, D-Trenton; and Terry Witte, D-Vandalia.

Many of the public comments received by the committee were directed toward Ameren UE, a private utility company that is planning to build a large electric-power substation for its nuclear power plant that will have lines running through several counties in the Jefferson City area. The construction of this large project will require the company to use eminent domain to acquire the land needed to build the substation and power lines.

Many farmers and other private landowners as well as bankers testified that they are being forced, through eminent domain, to give up part of their property, including some land that has been owned by families for more than 150 years, to Ameren UE.

A resident from Franklin County testified that MoDOT has used eminent domain to take property away from his family to relocate Route O in Franklin County. Bill McLaren testified that MoDOT used his own tax money to take away his property and property from four adjoining “century farms” for the project. McLaren said it took three years from the time he was originally contacted by MoDOT about the project to the time he was again contacted by the department with plans for actually taking some of his property. McLaren said he was offended when he recently received a 1099 income tax form in the mail from the federal government to pay taxes on the settlement of his property before the courts issued a final ruling on a financial settlement for his property. McLaren believes laws need to be passed requiring state agencies with eminent domain power to negotiate on cash settlements when property is taken away from taxpayers.

Sampson testified that MoDOT’s Right of Way Unit is responsible for the acquisition of land and realty rights needed for highway projects. Ten right of way district offices carry out acquisition activities throughout the state. The district staffs deal one on one with private

landowners. These employees also are one of the most beneficial public relations tools MoDOT has, Sampson said. They are on the front lines conveying to the public the need for a project and how a project will impact them. They carry the concerns of the department to the affected owners and in turn carry the concerns of the affected owners back to the department. These employees receive specialized training on the many aspects of the land acquisition process.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) provides important protections and assistance for people affected by federally funded projects. The Uniform Act was enacted to ensure that people whose property is acquired or who must move as a result of projects receiving federal funds will be treated fairly and equitably and will receive advisory assistance and/or compensation in moving from the property they occupy. MoDOT follows the Uniform Act on all projects whether or not federal funds are involved.

According to Sampson, MoDOT's acquisition of private land for public use is taken quite seriously because the department is well aware of the disruption it causes in the lives of landowners.

"MoDOT attempts to make the process as painless as possible and to fully understand the concerns of the public," Sampson said. "The responsibility of balancing property rights and fairness to the property owners against the prudent spending of taxpayer dollars is a delicate matter."

After Sampson finished his presentation, he answered the following questions asked by committee members:

- Rep. Witte asked, "Isn't it a conflict of interest to use internal MoDOT employees to appraise real estate property that is being considered for condemnation?"
- Rep. Harris asked, "Does MoDOT consider alternative routes for road projects?"

The committee met again Thursday, Oct. 23, in Mount Vernon to listen to more public testimony.

A final report from the committee is expected by the end of the year.

COMMITTEE TAKES STEP TOWARD PERFORMANCE-BASED BUDGETING:

MoDOT presented testimony before a House committee Tuesday, Oct. 21, about how the department is preparing for performance-based budgeting, which ties the appropriation of state funds to how well department programs meet the goals they set.

A new law passed by the General Assembly during the 2003 legislative session requires the use of performance-based budgeting. Under the new law, which goes into effect Jan. 1, 2005, legislators will consider how well programs attain their goals when appropriating funds for the continuation of those programs.

The subcommittee on House Appropriations—Transportation and Economic Development heard testimony from many state departments about their efforts to move toward the use of performance-based budgeting during hearings held Oct. 21-23. Adopting this new way of appropriating state funds is expected to take much planning and preparation by both lawmakers and state department officials.

MoDOT is different than most other state department's because its primary source of funding, fuel taxes, is not appropriated by the General Assembly. However, legislators do appropriate funding for MoDOT's multimodal programs.

MoDOT's presentation was given by Chief Engineer Kevin Keith, Director of Financial Services Mike Golden, Director of Administrative Services Dave DeWitt, Multi Modal Operations Director Brian Weiler, Resource Management Director Herbert Wheeler.

The group provided information about MoDOT's Dashboard, which establishes performance measures to guide the department as it works toward its three main goals: "Take better care of what we have; Finish what we've started; and Build public trust."

MoDOT also presented information about the department's Scorecards, which establish goals and performance measures in the areas of operations, project development, planning, communications, financial services and administrative services.

Testimony also was presented about MoDOT's property management practices and road ownership. MoDOT is making property management a priority and is implementing improvements to identify all future-construction right of way property in order to have a better inventory of the property owned by the department.

Road ownership testimony included information about the size of Missouri's highway system and how the department is looking at the entire system to determine which roads should be owned and maintained by the state and which roads should be owned and maintained by the counties and cities they serve. If roads were transferred in either direction—from the state system to a city or county system or from a city or county to the state—all parties would have to agree on a way to make sure available road funds are distributed in a way that would allow the roads to be maintained.

“MoDOT LISTENS TO MISSOURI TOUR” CONTINUES: In the first week of a three-week tour across Missouri, MoDOT's Director Henry Hungerbeeler met with more than 300 people; addressing their concerns and answering questions they have about the state's transportation system. The “MoDOT Listen to Missouri Tour” continues through Oct. 30.

During the first week, Hungerbeeler traveled to the Columbia, Moberly, Hannibal and St. Louis areas. Questions ranged from “How is all the money collected for transportation spent” to “What can I do to help get more money for transportation?”

Part of the tour includes visits with employees at maintenance sheds and annual employee appreciation events where employees are given the opportunity to ask the director questions relating to the department.

LEGISLATORS VISIT BUS INSPECTION SITE: Two legislators got an in-depth look at MoDOT's passenger bus inspection process Wednesday, Oct. 22, Representatives J.C. Kuessner, D-Eminence; and Dennis Wood, R-Kimberling City; and MoDOT officials from Districts 7 and 8 were invited by the Motor Carrier Services Unit of MoDOT to attend a bus inspection sight in Branson.

MoDOT's Motor Carrier Services is responsible for conducting safety inspection on all commercial vehicles in Missouri including: limousines, semi trucks, passenger buses, vehicles hauling hazardous materials and others vehicles used for commercial purposes.

Motor Carrier Services Director Larry Thomason and Motor Carrier Enforcement Manager Ben Goodin offered key legislators the opportunity to watch how the division's agents inspect commercial passenger buses without inconveniencing the tourists who use the buses to travel to Branson for entertainment.

The purpose of the tour was to provide elected officials with a better understanding of MoDOT's many responsibilities.

MoDOT PREPARING FOR ACCOUNTABILITY PRESENTATION: The MHTC and MoDOT will present the department's annual accountability report to the Joint Committee on Transportation Oversight from 1 p.m. to 3 p.m. Wednesday, Nov. 19 in the Senate Lounge at the State Capitol. The report will be delivered to committee members prior to the presentation.

Legislation passed by the General Assembly in 1998 requires a written report to be provided to legislators by Nov. 10 of each year. The committee then meets to allow the MHTC and MoDOT to present the report and answer any questions committee members may have.

The report includes comprehensive financial reports, status reports on highway projects and recommendations for changes and laws or regulations that would improve the efficiency and effectiveness of MoDOT.

UPCOMING HEARINGS:

Interim Committee on Job Creation and Economic Development, 8 a.m., Tuesday, Oct. 28, Stowers Institute for Medical Research in Kansas City.