

Quoting Wikipedia:

The **Trail of Tears** was an ethnic cleansing and forced displacement of approximately 60,000 people of the "Five Civilized Tribes" between 1830 and 1850 by the United States government. It was brought on by the discovery of gold near Dahlonega, Georgia, in 1828, resulting in the Georgia Gold Rush. The relocated peoples suffered from exposure, disease, and starvation while en route to their newly designated Indian reserve. Thousands died from disease before reaching their destinations or shortly after. ^{[5][6][7][8][9]} Some historians have said that the event constituted a genocide, although this label has been rejected by others. But one thing that is uncontested... The gold miners didn't care.

My great great grandmother Wheat walked on the trail of tears. For a smile, sack of flour, pat on the back and promise to "take care" of them my ancestors were given notice of the condemners intent to acquire their property. The majority that contested the taking got to meet death at the hands of the US military, and state militias, or got to take a nice walk that has been described as a "death March". The precedent is just as crystal clear today. You can take the carrot, or you will get the stick.

Now there is a "gold Rush" in cape county. It is called the ATXI-Wabash Development. Per (JJontry testimony 4-28-21psc, pg4). ATXI will run lines from Whittenburg to a new Whipple substation. For anyone in this area that doesn't know Whipple is procter and gamble. The gold is in the wires, and they are going to make a lot of it, and nothing is going to stand in the way. How familiar that sounds.

It is with a great sadness that I think of how she must have felt. A nameless piece of flesh that was in the way of someone making a crisp, clean, bright green, great smelling dollar bill. The serial number on it would be more important to them than any life they destroy. It is sad how far we have not evolved. But Google on the other hand has made great evolutionary progress.

Google definition is:

Eminent domain refers to the power of the government to take private property and convert it into public use, referred to as a taking. The Fifth Amendment provides that the government may only exercise this power if they provide just compensation to the property owners

There are steps in the eminent domain process:

RSMO 523.250 notice of intended acquisition. Grandma wheat learned about that.

RSMO 523.253 Written offer requirements.

Section 1. We were provided a written offer, in person. The contract land staff representatives position was "please don't shoot the messenger". And talking with others the standard of carrot vs stick is still very real. We were told by several people that they signed because they felt that trying to fight back would cost more in legal fees than they would ever gain. The original ATXI offer was for \$ [REDACTED]. We have amassed attorney fees of currently \$ [REDACTED]. They were right about that. We have drained our savings, there are bills we are unable to pay due to Amerens attempt to secure our property. It has been financially crippling. The gold miners.....don't care.

Section 2 (1) Any condemning authority shall, at the time of the offer, provide the property owner with an appraisal or an explanation with supporting financial data for its determination of the value of the property for purposes of the offer made in subsection 1 of this section.

(2) Any appraisal referred to in this section shall be made by a state-licensed or state-certified appraiser using generally accepted appraisal practices.

We were provided with a document that carried the label "appraisal report" on it. Provided in this professional looking blue folder. Furnished by Allen, Willford, & Seale, INC right of way valuations. In the first paragraph it states: the purpose of this valuation is to express our opinion of the fair market value of the fee simple estate in the real property in its before and after condition to provide an estimate of just compensation for a transmission line easement....our opinion of value is intended to assist Ameren transmission company of Illinois in its acquisition of an easement related to the limestone ridge transmission line project.

Ok. So the definition of Fair market value according to RSMO 523.001 is. the value of the property taken after considering comparable sales in the area, capitalization of income, replacement cost less depreciation, singularly or in combination, as appropriate, and additionally considering the value of the property based upon its highest and best use, while using generally accepted appraisal practices. And SIGNIFICANTLY If less than the entire property is taken, fair market value shall mean the difference between the fair market value of the entire property immediately prior to the taking and the fair market value of the remaining or burdened property immediately after the taking.

Now that we understand the definition of fair market value we can continue down the document. Address, city, legal description of 66.175 total acres is the entire property. Present use of the whole property described as recreational, agricultural, rural residential, medical was left off but maybe it was a simple error. BUT then we have the entry of USE REFLECTED IN APPRAISAL: LAND ONLY-RECREATIONAL/AGRICULTURAL (IMPROVEMENTS EXCLUDED). Highest and Best use being recreational /agricultural both before and after acquisition.

Page 2. Titled "Scope of the appraisal". At the request of the client the subject site inspection has been limited to a viewing of the property from the public roadway....we do not know the specifics regarding any structures that may be situated on the subject property....the "before value" did not include improvements...we have not performed a timber cruise and have not separately valued any merchantable timber.

The highest and best use of the subject whole property, as vacant, is for agricultural/recreational use. The highest and best use of the property of the remainder after is the same as the subject whole property. The highest and best use of the subject property does not change as a result of the partial acquisition. The highest and best use of the partial acquisition is for use in conjunction with the subject whole property. So says this appraiser whos intent is to assist ameren in its acquisition of this VACANT (per client) 66.175 acres. And of course regarding damages to the remainder of the property? It is stated the easement does not adversely impact the remainder of the property outside the easement. There are NO damages in this instance. Why would there be, after all its vacant property right?

RSMO 339.503 definitions.

Item #1 "appraisal" or "real estate appraisal". Being an objective analysis evaluation opinion or conclusion relating to the nature quality or utility of specified interests in, or aspects of, identified real estate. Oddly enough there is also item #7 an "appraisal report". A communication of an appraisal analysis. So what was ameren supposed to do?

Direct testimony of craig hiser ameren services real estate supervisor to the public service commission 4/28/0221:

Question: How will ATXI determine the compensation it will offer to landowners to acquire easements for the transmission line?

Answer: the compensation it offers will be based on valuation data provided by a third party independent appraiser. ATXI intends to get an appraisal for each easement.

So to recap , we got an appraisal report not an appraisal, and what about the "independent appraiser"

According to the Missouri extension office publications/ncr546

The list that follows gives factors or "tests" used by the IRS when determining whether a person is an employee or an independent contractor.

The question of "who controls the details?" appears to be the primary basis on which the determination is made.

1.Instructions

An employee must comply with instructions about when, where and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved.

So an example would be "at the request of the client (ATXI) the site inspection has been limited to a viewing from the public roadway". The "before" value did not include improvements, The highest and best use of the subject whole property , as vacant. Our opinion of value is intended to assist ameren transmission company of Illinois.

By definition, That does not appear to be an independent entity at all.

The appraisal institute has a code of professional ethics and explanatory comments.

Canon 1: one must refrain from conduct that is detrimental to the appraisal institute, the profession, and the public.

(page 8) ER 1-1a. It is unethical to knowingly, (a) act in a manner that is misleading.

(page 18, 43-45) it is a violation if a valuer prepares a report that includes information that he or she knows or should know will lead to the intended user of the report to an improper conclusion. Like assessing property as vacant when they know its not?

(page 8) ER1-1c /d. using or transmitting or failing to take steps to prevent another from using or transmitting a misleading report.

(page 18,56-77) examples include but are not limited to: a report that contains misleading analysis of comparable sales, a valuer develops a misleading highest and best use conclusion. Again vacant property that has identified improvements. And all comparable sales are vacant property.

Canon 3: In valuation practice, a valuer must develop and report unbiased analyses, opinions, and conclusions.

(page 13) ER3-1 In valuation practice it is unethical to knowingly contribute to or participate in the development, preparation, use or reporting of an analysis , opinion, or conclusion that is biased.

(page 25, 342-346, 362-370) The public interest also demands that a valuer not use an unwarranted hypothetical condition or special assumption. Therefore canon 3 and its associated ethical rules prohibit a valuer from using an unwarranted hypothetical condition or special assumption and from rendering an analysis, pinon, or conclusion that is not reasonably supported and that favors or promotes the cause or interest of the client, valuer, or another. The intended use of the analysis opinion or conclusion is relevant in determining the direction of a clients interest. For example: a valuer develops and reports a value of opinion for a property owner for purposes of appealing his property taxes. The valuers appraisal is based solely on a sales comparison approach. All of the comparable sales analyzed are clearly inferior to the subject property in many respects. In this case the lower the value opinion the more the property owner stands to gain if his appeal is successful. The report provided by AWS uses the sales comparison (as vacant aws page 6) approach. Coincidence, maybe? Or the lower the value opinion the less the condemning authority is required to compensate. Again that statement, "at the clients request....the subject whole property as vacant".

(page 13) ER3-4, ER3-5 In valuation practice it is unethical to provide a service that includes a hypothetical condition(or special assumption) unless its required, credible, and disclosures are followed.

(page 26-27, 414-422)An example of a hypothetical condition in an appraisal would be when the subject property is known to be contaminated, but it is valued as though it is free of contamination. Another example would be when a property is appraised as though improvements exist on the site when in fact the site is vacant on the date of value. On page 5 of the AWS report is the extraordinary assumptions and hypothetical conditions page. It claims there are no extraordinary assumptions, and that the hypothetical condition of the remaining property after acquisition a forecast is being made. Shockingly, (aws pg 8) "Based on our analysis , we do not believe the proposed easement has any negative impact." But is hard to have a negative impact on vacant property.

(page 27, 424-434) An example of the use of a special assumption in an appraisal would be when there is reason to believe-though it is uncertain-that the subject property may be contaminated, but it is valued as though its free from contamination on the date of value. Another example would be the valuer does not inspect the subject property and bases the appraisal on the presumption that information provided about the property is accurate. AWS page 1. This appraisal report is based in part on information furnished to the appraiser at the time of the appraisal report. Use reflected in appraisal , land only, improvements excluded. AT the request of the client, as vacant. There are no extraordinary assumptions used in this appraisal....its just vacant land after all.

So returning to 523.253. a written offer was presented to satisfy that requirement for condemnation. The condemning authority also provided a document regarding property value. To satisfy 2-1. However 2-2 states: Any appraisal referred to in this section shall be made by a state licensed or state certified appraiser using generally accepted appraisal practices. And here they do not meet the states requirements.

Canon 1, It is unethical to knowingly : act, use, or transmit a misleading report. Like assessing the property as vacant when they know it is not. Like using the sales comparison approach with properties that are not similar and attempting to devalue the property with adjustments. Claiming there would be no damages, because after all, you cant really damage vacant property.

Canon 3, In valuation practice, a valuer must develop and report unbiased analyses, opinions, and conclusions. At the clients request, AWS provided them with exactly what they wanted. ATXI provided the framework for an artificial value. It was valued as vacant property, compared to other vacant properties, and since its vacant , there is of course no damages to be liable for. No hypothetical conditions or special assumptions were used it was just simply vacant property.

It said AWS on the report, but it should have read ATXI. RSMO 523.001

"Fair market value", If less than the entire property is taken, fair market value shall mean the difference between the fair market value of the entire property immediately prior to the taking and the fair market value of the remaining or burdened property immediately after the taking.

According to AWS/ATXI the property in its entirety is vacant. The financial documents provided reassert this notion over and over. Their claim of fair market value does not match state statutes. It does not pass ethical guidelines for the USPAP. We have reported this to the attorney general. The incident number is [REDACTED]. We have reported this to the Missouri public service commission, filing a complaint, public comment, and also submitted documents to the regulatory compliance manager who I have talked with and has said that although they are unable to revoke the current CNN, the next time ATXI applies for a transmission CNN these issues will be addressed. Because the Testimony of the ameren officials does not reflect the actions that are being taken. And a civil case has been started under RSMO 570.030 section 1

Point being, 523.253 written offer requirements section 2-2 did not meet the requirement of the state.

Moving on.

523.256 Good faith negotiation required, findings and remedies.

Before a court may enter an order of condemnation, the court shall find that the condemning authority engaged in good faith negotiations prior to filing the condemnation petition. A condemning authority shall be deemed to have engaged in good faith negotiations if:

- (1) It has properly and timely given all notices to owners required by this chapter

This is another item in which the condemning authority has failed to address. We have had some contact with contract land staff. But the majority of our information has come through relatives that receive the cash book journal. On March 14th, 2023, approximately two and a half months ago, I received an email from my lawyer. She received a phone call from opposing council to notify her that they know my address NOW. I have NO idea what kind of documents I was supposed to have received. I heard from Jim Jontry via a phone call that he was present at a information sharing event in perry county in early may. I would have tried to go to that. But I don't get the notices.

Point being 523.256 good faith negotiation section 1 did not meet the requirement of the state.

(2) Its offer under section 523.253 was no lower than the amount reflected in an appraisal performed by a state-licensed or state-certified appraiser for the condemning authority, provided an appraisal is given to the owner pursuant to subsection 2 of section 523.253 or, in other cases, the offer is no lower than the amount provided in the basis for its determination of the value of the property as provided to the owner under subsection 2 of section 523.253

Both canons one and three sink this. Plain and simple, at the clients request, an artificial amount was generated based on vacant property values in the area, with complete disregard to both testimony to the PSC that allowed them to move forward with the project, and to the Missouri statutes that govern the process of fair market value, and written offer requirements.

Items 3,4, and 5 have no effect here.

But to be thorough, and further highlight the refusal of ATXI to engage in good faith negotiations. Please also consider this.

Testimony of craig hiser to the PSC 4/28/21. Schedule CH-03 #8.

If necessary for construction ATXI will reimburse landowner for their time required to move livestock from one location to another, and where feasible may install temporary fences or gates to keep livestock out of the construction area.

Letter from Denise Thompson 6/9/2022 responding to our concerns of the need for a fence to exclude livestock from the construction area.

"ATXI does not plan to install any fencing on your property that does not currently exist, and you may maintain any fences that currently exist.".....Short answer NO

Testimony of craig hiser to the psc 4/28/21 schedule CH-03 #19

ATXI will work with landowners to prevent or correct excessive erosion on all lands disturbed by construction. ATXI will use all reasonable efforts to ensure that erosion control measures are implemented, or pay the landowner to do so within 45 days, weather and landowner permitting, following the construction of the transmission line across any affected property subject to erosion.

Letter from Denise Thompson 6/9/2022 responding to our concerns of the need for erosion control measures. We have wooded slopes that are 60-70 degrees. The trees prevent erosion, and they will be removed by ATXI.

"ATXI will implement a storm water protection plan (SWPP) featuring the best practices to avoid erosion. Apart from this, ATXI generally tries to restore the property to a condition as close as possible to the condition it was in before construction, so unless the property was terraced with dry holes leading to the creek before ATXIs work, ATXI generally will not do this work".....short answer NO. We requested a copy of the SWPP, its been almost a year, haven't seen it.

We have a family cemetery on top of our hill. The transmission line is supposed to go over the top of it, and ATXI will condemn our cemetery. We requested the line be moved to the east as allowed in RSMO 523.256-5.

Letter from Denise Thompson. 6/02/2022

"ATXI has considered this proposed alternative location. Unfortunately ATXI cannot agree to this alternative location for various reasons, including that the contemplated location of the new line is based on the overall design of the transmission line for the limestone ridge project.".....Short answer NO

After all this time and lawyer meetings. We finally came to the conclusion that we would be unable to remain on our property. Amerens aggressive behavior, demands of full access to our entire property along with the ability to add or remove anything including buildings, if they decide its necessary or convenient. We would be best leaving the property. But even at this, amerens refused to consider us as displaced people despite RSMO 523.200 being

- 1) **"Displaced person"**, any person that moves from the real property or moves his personal property from the real property permanently and voluntarily as a direct result of the acquisition, rehabilitation or demolition of or the written notice of intent to acquire such real property, in whole or in part, for a public purpose

Petition for condemnation page 4 item 12.

The use of the foregoing easement rights, including any expansion of its facilities within the easement area by plaintiff, upon condemnation thereof hereunder, does not impose an unreasonable burden or impact on defendants property or defendants activities thereon, and defendants shall retain right to use the easement area and wissman property in any manner not inconsistent with the rights of plaintiff described herein, including use of the easement area and wissman property for agricultural purposes.

There are a lot of problems with this statement your honor. I hope you recall the letter I sent you from my DR stating that this is not just an "unreasonable burden or impact" that ATXI is creating but a dangerous one as well. Second, there are TWO takings going on here. They are taking the easement area , and the wissman property in its entirety. Another reason we asked to be relocated. There is no reason they need anything other than the easement area. The easement area goes to the public roadway. There is an existing service road there that gives them access to the line in its entirety. I do not maintain that road. They want to create a new road on what was our property that I will have to maintain for them. Because as said on page 5 paragraph 15 there is a perpetual easement across the entire property. We would be tenants on ATXI's property. The gold miners don't care. And history has shown, you better run before the military and militia show up.

The evidence is clear your honor that the states requirements for condemnation have not been met.

1. Written offer requirements were not followed.
2. And good faith negotiations did not occur.

RSMO 523.256

If the court does not find that good faith negotiations have occurred, the court shall dismiss the condemnation petition, without prejudice, and shall order the condemning authority to reimburse the owner for his or her actual reasonable attorneys' fees and costs incurred with respect to the condemnation proceeding which has been dismissed.

I pray the court dismiss this petition and have our attorney fees returned. We are not a billion dollar company and don't have the funds to waste on litigation. We are willing to work on a compromise with ameren because we are well aware that our property is going to be taken. Currently clearing has stopped due to an endangered species that may have a presence on this property. Work could start again in September. I believe that is plenty of time for ameren to consider reasonable negotiations. We have even offered to participate in a mediation. But again I plead with the court for our attorney fees because tomorrow or as soon as cause can be met, a new petition will be filed that will address the failures of this one. Thank you for your consideration.