



**MINUTES OF THE  
LAND RECLAMATION COMMISSION MEETING  
LEWIS AND CLARK STATE OFFICE BUILDING  
NIGHTINGALE CREEK CONFERENCE ROOM  
1101 RIVERSIDE DRIVE  
JEFFERSON CITY, MISSOURI  
JANUARY 22, 2009**

Chairman, Jim DiPardo called the meeting to order at 10:00 a.m., at the Department of Natural Resources, Nightingale Creek Conference Room, located at 1101 Riverside Drive, in Jefferson City, Missouri.

**Commissioners Present:** Jim DiPardo, Dr. Gregory Haddock, Bill Duley for Joe Gillman, Nick Matherly, Kevin Mohammadi, for Water Pollution Program. Not present: Bob Ziehmer, Joe Gillman and Col. Riffle

**Staff Present:** Bill Zeaman, Chris Thiltgen, Larry Slechta, Mike Larsen, Mike Mueller, Joyce Luebbering, David Dowdy, Larry Hopkins, Teri Bibbs, Larry Teson, Teresa Schubert, Amanda Weimer, Steve Femmer, Ron Dumey, Mitch Roberts, Tina Stockman and Leanne Tippet Mosby.

**Others Present:** Shelley Woods, Attorney General's Office; Steve Rudloff, Mo. Limestone Producers Association; David Keller, Harbison Walker, Richard Brownlee, Attorney representing Journagan , Hendren Andrae, LLC; Rhoda Brubaker, Maureen Eden, Citizens of Shannon County, Angel Kruyer, Water Sentinel, Dale Counts, Herman Kelly, and Tony Orchard, Commissioners of Shannon County, Floyd Clark, Shannon County Consultant; Ken Midkiff, Sierra Club.

**~~Approval of November 20, 2008 Meeting Minutes~~**

Dr. Haddock made a motion to approve the November 20, 2008 Meeting Minutes as written. Nick Matherly seconded the motion. The motion was carried unanimously.

Chairman DiPardo took a moment to state to the Land Reclamation Staff that speaking for himself and the rest of the Commissioners and Col. Riffle, who was not present and wanted Mr. DiPardo to pass this onto the Staff, that they have all the confidence and respect for all the Staff during these times of uncertainty. The Commissioners wanted the Staff to know that they have the Commissioners undivided attention anytime they may need them. They are here for the Staff and think that they are a great group of individuals. The Commissioners want the Staff to continue that. He also stated to Mike Larsen that the Commissioners appreciate him stepping in to fill the shoes of Larry Coen and the other requirements and duties that are added on as time goes on but they wanted the Staff to know that they really appreciate the work they are doing.

## INDUSTRIAL MINERALS

The Staff Director of the Land Reclamation Program has reviewed, evaluated, and approved the following Industrial Mineral bond release requests. This summary is being provided for the Commissions information:

Company	Permit #	Mine	Land Use	Acres Released	Amount Released
A.P. Green Refractories, Inc.	0118	Maries County, Baker S, Site 0856	Pasture/Water	8	\$4,000.00
A.P. Green Refractories, Inc.	0118	Gasconade County, Farnberg-Larimore Site 1648	Wildlife/Water	6	\$3,000.00
A.P. Green Refractories, Inc.	0118	Gasconade County Bueker Pit #19, Site #0698	Wildlife/Water	5	\$2,500.00
Harbison-Walker Refractories	0146	Callaway County, Wetherell #1, Site #0238	Pasture/Water	6	\$3,000.00
Harbison-Walker Refractories	0146	Montgomery County, Zimmerman #5, Site #0230	Pasture/Water	34	\$17,000.00
North American Refractories	0159	Montgomery County, Worland, Site #0272	Pasture/Water	8	\$4,000.00
Stone Age Materials	0988	Wayne County, Open Pit Site #1	Development	8	\$8,000.00
Van Buren Stone Company L.L.C.	1003	Carter County, Pit 3, Site #1892	Development	4	\$2,000.00

Staff presented the above requests for bond release to the Staff Director. The Staff Director approved the releases noted above following review of the requests along with photographs taken during the bond release inspections.

Confirmation of the approval has been sent to the company and bonding entities. This summary was provided to the Commission for their information only.

### **Bond Release for A.P. Green Refractories**

The Land Reclamation Program staff has received a request for approval of reclaimed land for A.P. Green Refractories Permit #0118 site 1814 the Hance Pit #1 & 2 in Phelps County. This is a partial release of this entire site. The site is five (5) acres. The Company is only asking for release of three (3) acres on this site. It is located in Phelps County, North of St. James. The reason that this is being brought to the Commission today is because on a side visit the land owner had some concerns. She received a letter from A.P. Green saying that she could write in and request a hearing on the release. Mr. Thiltgen stated that he explained the process to her and the Program has not heard anything from her. We wanted to ask the Commission for this release.

Mr. Thiltgen then presented slides. There is good vegetation in most areas and stable water impoundment. The land owner let horses graze this area and think this is part of the problem for the spotty vegetation in some of the places. The back side of the dam is very densely vegetated and stable. One of the issues that the land owner had was that this impoundment leaked and that it oozed all the time. The inspector went with the landowner below the impoundment and searched for 45 minutes and did not find any leakage. The impoundment was really bank full at the time. The site was inspected on October 9, 2008 and is now a stable water impoundment and there were some areas that lacked the amount of vegetation that would normally be necessary, but we believe that this is from the livestock grazing the area. Everything else is very stable. The land owner also had a issue that the water level in the impoundment would lose 5 or 6 feet at times and then come back, but there was some very well established aquatic vegetation around the rim of this pit and if it loses that much water, it can't be a fast up and down, it is very slow, maybe seeping into the limestone bedrock. Mr. Thiltgen believes that the 3 acres should be approved for release and is here today to ask for the Commission's decision.

David Keller, Harbison Walker Refractories Company, stated that when this pit was first reclaimed, they did fence out the livestock to establish a suitable stand of vegetation, but that the fence over time became scuttled and broken in several areas. The livestock has been allowed to graze in the area, which is part of the problem with the vegetation especially along the top of the dam. Dr. Haddock made a motion to accept the staff recommendation to release liability for AP Green Refractories Hance Pit #2. The motion was seconded by Commissioner Mohammadi. The motion carried unanimously.

**Tabled Hearing Request: Leo Journagan Construction Company, Taney County**

At the November 20, 2008 Meeting a hearing request was brought before the Commission concerning the Permit Application sought after by Leo Journagan Construction Company for 160 acres in Taney County. Chris Thiltgen asked the Commissioners if they would remove this issue from the table so that new developments can be discussed. Dr. Haddock made a motion to remove this from being tabled and the motion was seconded by Mr. Duly. The vote was passed unanimously.

This hearing request was tabled at the previous Land Reclamation Commission meeting. Since the last meeting the Land Reclamation Program has received four (4) letters on behalf of Leo Journagan Construction Company, Inc. Chris Thiltgen passed out a letter that was received recently that was not in the Commission packet. All the letters are from Mr. Richard Brownlee of Hendren Andrae L.L.C. Attorneys at Law. The first letter was to inform the program that Mr. Brownlee was representing Journagan in this matter. The second letter was to urge the Commission to deny the petitioners request because they believe that the public comment period had expired. The third letter was to inform the Program that they had tried to contact Branson Creek, the Petitioners in this case, to resolve this matter. As of December 29<sup>th</sup>, they haven't had any response from Branson Creek. The new letter stated they have contacted Branson Creek and that they are working on a settlement of some sort. Chris answered the question of why we accepted this letter which seems to be after the comment period, in the law, the Land Reclamation Act says, if the recommendation of the Director is for the issuance of the Permit, the Director shall issue the Permit without a Public Meeting or Hearing except that upon the Petition received prior to the date of his Notice of Recommendation in issuing the Permit. Since

we do not issue Permits by the time of day, everything is by the end of the business day. Mr. Thiltgen stated that he and Larry Coen had come to the conclusion that they had to accept this hearing request and present it to the Commission.

Mr. Brownlee of Hendren Andrae, LLC, Attorney at Law, stated that he has tried to keep the Commission informed regarding the settlement. The present site is located East of a highway. The expansion is further east from the present site and it is surrounded by the Branson Creek Area, but there is also some landowners that are not involved in the official protest. It is desired to negotiate not just with Branson Creek, but with two (2) other gentlemen that own some contingent land, because to ideally operate this, they could get permission from them to get an easement from this expanded area, they wouldn't have to go all the way back east to the present plant, which would create an extra expense. He stated that the Attorneys have not been involved in the negotiation, but that the parties met last week and they are working on it. Mr. Brownlee requested that the issue be continued until the March meeting. He also stated that hopefully they will have a resolution in the next month or so. Dr. Haddock stated that from the November 20<sup>th</sup> meeting one of the other concerns from Branson Creek was the line of site and visibility issues. He asked if this was anything that the parties have been discussing. Mr. Brownlee stated that he has not been present for the negotiations. Commissioner DiPardo reinstated that the Commission wants the people to come together, to get an open dialogue of communication, but these discussions between the parties were still delayed and this gets frustrating to the Commission. Mr. DiPardo asked if anyone from Branson Creek was present. No one was present from Branson Creek. Mr. DiPardo thanked Mr. Brownlee for coming and that when he returns to his clients, he hopes that things will be resolved. Mr. Brownlee stated that he is sure things will get resolved because it is costly. Mr. DiPardo again asked Mr. Brownlee to pass the information on to them. Dr. Haddock stated that in this situation, in the matter of health, safety and livelihood, it seems that a lot of the discussion we had at the November Meeting seemed to start to come around, property issues, controlling things that people can or can't do on other property that they have no control over. Dr. Haddock made a motion to deny the Hearing request. Shelly Woods, Attorney General's Office, stated that it was not clear to her what the people from Branson Creek understood, had they known this motion could have happened, they might have been present today. Mr. Brownlee mentioned that he came to the meeting to update the Commission on this issue and to ask for it to be continued. In all fairness to Branson Creek he would like to see it continued. Shelley Woods, Attorney General's Office agreed that it would be better to table the issue since Branson Creek was no present. Mr. Larsen stated he agreed with this advice. The motion died due to lack of a 2<sup>nd</sup> vote. Commissioner Matherly made a motion to table the issue and place it on the Agenda for the March meeting. Commissioner Duley seconded the motion. The motion was carried unanimously.

#### **Hearing Request: Shannon County Commission Quarry, 8 acres**

Chris Thiltgen handed out a copy of a letter to the Commissioners that was not in the Commission packets, from Janet Brown, a concerned citizen, who is opposed to the proposed limestone quarry. Mr. Thiltgen presented the Commission with a Hearing Request concerning the new permit application sought after by the Shannon County Commission for eight (8) acres in Shannon County. On June 19, 2008, the Land Reclamation Program received a new permit application from the Shannon County Commission, proposing to open a new mine site of eight (8) acres in Shannon County. After the application was deemed complete Shannon County

published the public notice once a week, beginning on November 26, 2008 for four (4) consecutive weeks in the *Shannon County Current Wave*. They also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials, which is themselves and the adjacent and contiguous landowners. This proposed permit expansion application of eight (8) acres is located in Section 35, Township 29 North, Range 3 West in Shannon County. The proposed mine operation timeframe is to the year 2023. The Staff Director received four (4) letters during the comment period concerning the proposed new permit expansion application. The letters provided comments and requests for a hearing. We also received another letter just recently that we did not have time to get into the packets. We have a hearing request record on file that was signed by Rhoda Brubaker. Therefore we present a request for a hearing before the Commission at today's meeting. On October 28, 2008, (this is the wrong date) Mr. Thiltgen apologized that this was the wrong date. The Staff Director did send a letter informing the people requesting a hearing of the time, location of and how to prepare for today's Commission meeting. The Land Reclamation Act requires that the Staff Director make a formal recommendation regarding the issuance or denial of an applicant's permit. In addition, the "Act" requires the Director to consider any written comments when making this decision.

After consideration of issues provided in letters, it is the Director's recommendation to issue the new permit application, involving eight (8) acres in Shannon County sought after by the Shannon County Commission. The Director's recommendation for approving this application is based on the fact that the County has satisfied the requirements for application completeness. The second step in the process involves the Land Reclamation Commission making the final decision on whether or not people have standing to grant a public hearing.

Rhoda Brubaker, property owner in Shannon County, who lives a few hundred yards from the site is opposed to the issuance of this permit. She stated that the property, people and livestock will be in danger. One of these people could not attend because she is disabled. They sent in their comments and hope that you will take this petition seriously. This is not an established quarry, this is land in the middle of private property. She stated it is questionable if there is any limestone in this land, no surveys or core drilling has been done. Ms. Brubaker had a piece of rock from where she lives and she stated it is igneous, not limestone. The blasting will affect their wells and water supply and they have a concern of fly-rock. Ms. Brubaker stated that her well is drilled directly into granite. She would not have had to case her well, but the well driller told her specifically because there is a rule that wells have to be cased at 80 feet, she had to case her well. She also stated they continued to drill until 675 feet and found no water but they tapped into a stream. If there is blasting on the same ridge that she lives on, this could disturb her water system which could lead to her having no water. She also stated that since the Water Department and Commission cares about the fish eggs in Indian Creek, she would also like them to care about her. There are two (2) other quarries in the area, one is within 8 miles and the other within 15 miles of this property. Ms. Brubaker stated the County has plenty of limestone in this County and they do not need this quarry. She stated the Water Protection Division has denied the County their request for a permit. Commissioner Mohammadi asked what the reason was for the denial of the permit by the Water Protection program. Ms. Brubaker responded that there would be direct runoff into Indian Creek, which is a losing stream, which is adjacent to this property. The County must provide a plan to prevent any runoff. She is concerned that there

would be diesel fuel, rock particulate and sediment from crushing running off. She received a letter dated in November, stating it was denied, if they choose to reapply, they would need to apply for a site specific permit. Commissioner Mohammadi asked Chris Thiltgen if the permit from the Water Protection Program had been denied. Mr. Thiltgen responded that he thinks their general permit was denied and that the County is applying for a site specific permit. Chairman DiPardo asked Mike Larsen if the Land Reclamation Commission is allowed to go ahead and act on this when there is another Agency with concerns of issuance of permits. Mr. Larsen stated that the Commission's issuance of the permit can be done independent of other Programs permit issuance, however the Company cannot operate a quarry without a storm water discharge permit. It is the Company's responsibility to get permit clearance from the other Programs.

Maureen Eden is a concerned property owner of 120 acres, who is also opposed to the quarry. She stated that the water discharges into the Indian Creek and the losing stream plays directly in the Current River. This property would be close to her property that her well could be affected. Her plan to be an organic herb grower of native field herbs is in jeopardy. Her 10 year plan of developing a nursery of organic herbs would also be affected. She is a massage therapist, her livelihood depends on tourism, which she feels would be impacted. She stated that her land value would be impacted and it could destroy the beauty of the land. She is asking for the Land Reclamation Commission's intervention because the County level won't listen to them. She stated that no core samples have been taken. She is concerned that the County is poorly budgeted and that the County does not have the finances to get the blasting, hauling, and crushing completed. She is also concerned that the County will be using public funds but to profit whom. She also believes that this is the wrong location for the quarry. It would add quarry trucks on the busy roads which would make them more dangerous.

Commissioner Duley asked how it was determined that Indian Creek was a losing stream. Mrs. Brubaker stated the USGS, she handed some information to Mr. Duly. There was some discussion. Mike Larsen asked if they could please clarify the answer to the question. Mr. Duley stated that he is not sure if it has been determined that it is a losing stream. Ken Midkiff with the Sierra Club responded it is in 10 CSR 20-7 that losing streams are defined. The Water Protection Program and the Clean Water Commission took the recommendation of U.S. Geological Survey and memorialized those in the Code of State Regulations. Mr. Duley responded that it is not clear that Indian Creek is a losing stream because unless you have something specific that shows that it is. Commissioner Mohammadi said if it is a losing stream it would be listed in the regulations. Shelly Woods, Attorney General's Office stated that there is a listing of losing streams in the CSR, but unsure of the exact Code number.

Mr. Floyd Clark, a citizen of Shannon County, was asked by the Shannon County Commissioners to assist them with the permitting process. Mr. Clark addressed the issues of concerns. He stated that the permit denial by the Water Protection Program for a general permit was true. The Water Protection Program staff does not issue General Permits for the protected area. He also stated a site specific permit which would need a professional engineer to design a "No-Discharge" permit application is needed and he understands that. He stated that the traffic volume at the T intersection location has half of the trucks going each direction. The traffic count per the Missouri Department of Transportation at this location is 260 vehicles a day on Highway 106 and on the west side of Eminence the count is 450 vehicles a day. Mr. Clark also

stated that the Missouri Department of Conservation owns property between the quarry and the property that Mr. Brubaker and Ms. Eden own. Missouri Department of Conservation staff did a heritage review and they identified two species of bats that forage over the area, there was concern for these bats habitat in caves but there is no habitat on the proposed permit area. Mr. Clark addressed the concern of run off that goes into Indian Creek. He stated there is run off before Indian Creek is named which is one (1) to one and a half (1 ½) miles before you get to a named creek, there are unnamed tributaries, Ozark hills and steep terrain. He also stated that the County would employ a licensed bonded professional to do the blasting. Commissioner Bill Duley asked if this area has limestone on the hill. Mr. Clark responded that other experts have determined that there is. Commissioner Mohammadi stated that with two (2) quarries in the area, what is driving the County to open this quarry? Mr. Clark responded that the County Commissioners are interested in higher quality rock to use on the roads and this is not available in one of the quarries. The other quarry is apparently short term and quality of the stone is questionable. Shannon County wants its own quarry with high quality rock that is more durable for the roads. He also stated that the County would save money over the long term, by using higher quality rock would result in lower maintenance costs and less damage to the equipment as they grade the roads. Ms. Eden stated that she had asked the County Commissioners who looked at the rock and who did the testing, but they couldn't give her a name or a phone number. She stated that this is very frustrating. Mr. DiPardo asked Mr. Clark what his background was. Mr. Clark stated that he is a retired University Extension Community Development Specialist, and he was asked to assist with the permitting process.

Mr. Tony Orchard, Presiding Commissioner for Shannon County, stated he supports tourism, he owns a convenience store and he depends on it very much. The volume of tourism that comes into the County is not just for his business but for the tax payers of their County. The Commission wants to do more roads with chat than creek gravel. He wants to use the product from this location for better roads throughout the County. Mr. Orchard works with the Missouri Department of Transportation, he is on the Transportation Advisory Committee, he stated that the road dangers have never been made known to him and there are no warning signs posted. The County will work with Missouri Department of Transportation on whatever issues need to be addressed. He stated that the last thing he wants to do is to jeopardize the Jacks Fork or the Current River or any tributary into it. This is what Shannon County is based upon is their natural resources and those two (2) rivers, without those it would make a very dramatic impact on their County as far as tourism. Mr. Orchard also stated that this quarry would be set back due to the buffer zone and would not be seen by the public. They will be blasting 2 months out of the year. They will be using three (3) trucks to haul each day, if everyday. Commissioner DiPardo asked who owns the land. Mr. Orchard stated that the Shannon County Commission owns the land and will buy equipment and operate the quarry. Some of the equipment has already been purchased. The cost of the quarry and operating it will pay for itself through better roads and much less maintenance. Commissioner Matherly asked if there will be any commercial sales with this quarry. Mr. Orchard responded, no, that is against the law. Commissioner Matherly asked Mr. Orchard if he had a number on investment and how will he justify the equipment and what is it going to cost to do this for the amount of rock you are going to produce. Mr. Orchard responded he is relying on his two (2) road Commissioners who have been working on this and doing research on it for two (2) years.

Herman Kelly, Associate Commissioner with Shannon County has been with the County for 20 years. He is convinced that chat roads are much better. The cost to buy chat is much higher than producing it themselves. He stated that they have no funds to buy it but can afford to produce their own and this will benefit the whole county with better roads. They will be blasting and crushing two (2) months out of the year to produce enough rock possibly 40,000 tons a year. It would cost \$240,000.00 for the County to buy it. They have purchased good used equipment and will utilize two (2) of their workers to run this quarry. He also stated they just don't have the funds to go out and buy the rock. We have to produce it ourselves. Chairman DiPardo asked if they would generate their own power at this site. Mr. Kelly said it would be operated with a diesel engine. Mr. Mohammadi asked the Presiding Commissioner about the quality rock from existing quarries and if there was ever a problem with their rock. Mr. Orchard stated no, they never had a problem with their rock.

Dale Counts, Northern Shannon County Commissioner, stated the quality of the rock is not the main problem, but it is the cost of the rock at these other quarries. He discussed the crushing process. He stated that they have purchased a small portable crusher that is one compact unit that is ran by a diesel engine that is pulled in by a truck. The Missouri Department of Conservation is wanting the County to do something other than getting the gravel out of the creeks. Commissioner DiPardo asked with the location of this property if they are subject to the Corp of Engineers. Mr. Counts stated yes. Doug's Drilling is the one who did the drilling and said it was good quality limestone. Mr. Matherly asked if they intended on doing more core drilling. The County Commissioner stated that the rock is sticking out on top of the ground and there are many ledges of bluff. Commissioner Haddock asked if it was established through blasting that if you affected or impaired a well of one of the neighbors what would be the standard operation. Commissioner Counts stated the blaster would have to be bonded, but we don't see how it could affect anything of the environment. Commissioner Matherly asked how far it is from Indian Creek to the Current River. Mr. Counts stated it was a little more than 4 miles. Commissioner Mohammadi asked about the costs of engineer core drilling. Commissioner Duly stated that the County has already bought the property. Commissioner Matherly asked what made them pick this particular area. Mr. Counts stated this particular land was selected because the location would be beneficial to supply both the northern and southern parts of the County. Dr. Haddock asked if they purchased the land for \$3300.00 an acre. Mr. Counts stated they paid \$31,400.00 for 10 acres.

Ms. Brubaker stated that the rock is not limestone but it is igneous. She brought a sample and took it up to the Commissioners to look at. Commissioner Duly stated that rock changes very rapidly. Ms. Brubaker stated she is very concerned about the tax dollars being spent. Mr. Counts stated that the County would really like to use chat rock and discontinue the use of creek gravel on their county roads. He also stated they have a general gravel permit. Mr. Zeaman asked if that permit is with the United States Corp of Engineers. Mr. Counts stated that yes it is. Commissioner Matherly made a motion to deny the hearing request. Dr. Haddock seconded the motion. The motion carried unanimously.

**Formal Complaint 2716, Clay's Sand and Gravel; Barry County**

Mr. Zeaman stated that he is working closely with Clay's Sand and Gravel and they are trying to bring this to a peaceful resolution and they are coming into compliance. He asked that the Commission not take any action on this formal complaint at this time. Commissioner DiPardo asked if he needed to pay a fine yet and Mr. Zeaman stated yes and it also involved an issuance of a violation for failure to obtain a permit while conducting gravel mining operations. The Operator has applied for a permit and we have issued that certificate, he is also adding a few new sites and the formal complaint was on the issuance of a violation and he has since corrected that. He does have an Order to pay with a compliance schedule of \$200.00 a month up until July 1<sup>st</sup>. Mr. DiPardo asked about this operator's track record. Mr. Zeaman said this is really his first time that we have had any problems. Commissioner Matherly asked what Clay's Sand & Gravel reasoning was. Mr. Zeaman said he didn't give a reason. Mr. Zeaman said they send reminders out to renew their certificate and pay their fees. The Inspectors made a visit to his operation and caught him in the process of operating it. Mr. Zeaman gave the credit to Inspectors, Chris Thiltgen and Amanda Weimer.

**Referral for Bond Collection. Andrew Diehl; Bates County**

Mr. Zeaman explained that this issue was discussed at the September Meeting. The Sheriff's office did successfully hand deliver a formal complaint. Mr. Zeaman stated that we are always trying to send certified mail to Mr. Diehl. Since the date of the memo and today's memo the Sheriff's Office did deliver the Formal Complaint to Andrew Diehl. Mr. Zeaman called the phone number for Andrew Diehl and left a message that the Land Reclamation Program will take this referral for collection of bond to the Commission at today's meeting. Mr. Zeaman also asked him to return his phone call but Mr. Diehl never did. Because of the unresponsive nature of the operator the Staff recommends that the Commission revoke the Certificate to operate a surface mine and request that the Attorney General's Office proceed with collection of the bond associated with this permit. Dr. Haddock made a motion to follow the recommendation to revoke the permit to operate a surface mine and request the Attorney General's Office to proceed with the collection of the bond. Mr. Duly seconded the motion. The motion passed unanimously. The Commissioners signed the Revocation Order.

**Bond Forfeiture Status**

Since the last update provided to the commission on November 20, 2008, the following work has been completed by the program's bond forfeiture staff:

**Universal Coal and Energy Co., Inc. – Mine #4 and Preparation Plant Support Area**  
**Missouri Mining, Inc. – Mine #4**

Contract work was awarded and scheduled for the month of December at Universal Coal's mine #4. The work involved the final placement of rock in a waterway as well as the installation of a new spillway system on a pond. However, due to inclement weather and the Christmas holidays this work was not completed as expected. Every effort will be made to complete this work as soon as possible.

In addition, another contract for erosion repair, pond repair, soil placement on a few small areas and revegetation of these areas will be necessary early this year in order to complete the remaining maintenance work on this mine site. It is hoped and expected that this contract work will be completed in the first few months of this year. Weather permitting, this will complete all known maintenance work for this mine site and prepare the remaining permit areas for a release presentation before this commission prior to July 1, 2009.

Staff has been working in cooperation with landowners and the federal Office of Surface Mining to prepare parts of Mine #4 for a release presentation at this commission meeting. Also, work on a small, support area of the former Universal Coal and Energy preparation plant area has been completed and this area is now ready to present to the commission for their release consideration. In addition, a remaining area of the former Missouri Mining, Mine #4 located in Putnam county, has been examined by staff and is now ready to present to the commission for a release request. The Missouri Mining area is what is known as an "Old State Law" area (mined prior to mid 1978). All of these areas will be presented to the commission in a separate agenda item later in today's meeting.

Finally, a schedule of projected release presentations for the year 2009 has been prepared by staff for the staff's director and the Office of Surface Mining and is attached to this memo for the commission's information.

### **Coal Bond Forfeiture Responsibility Release Requests**

The Land Reclamation Program's bond forfeiture staff has evaluated the following former coal mining sites during the past two months and is now presenting them to the commission for their release consideration.

The former mine sites have been inspected jointly with the Office of Surface Mining and, in addition, the current landowners of record have been notified that these sites are to be recommended for complete and final release at this meeting of the Land Reclamation Commission. Two landowners at the former Missouri Mining site did contact the program with questions which were satisfactorily addressed. It is the recommendation of the program's bond forfeiture staff that, as all necessary reclamation has been accomplished, that the Missouri Land Reclamation Commission concur with this recommendation and release the state from all further reclamation responsibility on the permit areas of the of the following coal mining sites: Missouri Mining, Inc., Mine #4 Permit #77-25-A1 for 54 acres, Universal Coal & Energy, Plant Area Permit #1983-10 for 9 acres, and Universal Coal & Energy, Mine #4, Permit #1982-19 for a partial release of 60 acres. Dr. Haddock made the motion to accept the staff's recommendation to release the State from any further reclamation responsibility on these permits. Mr. Bill Duly seconded the motion. The motion passed unanimously.

## **PERMITS, CONTRACTS AND DESIGN**

### **Coal Permitting Activities Update**

This report covers coal permitting activities between October 24, 2008, the date of the last update, and the date this memorandum was prepared, January 9, 2009.

During this reporting period, LRP received six (6) new coal permit actions that require review and approval. Three (3) of these permit actions were finalized during this reporting period. As the reporting period ended, three (3) permit actions were still under review by the LRP staff. LRP staff reviews are proceeding on schedule.

### **Renewal of Palmer Limestone Strip Mine Law Permit OL95-01**

On October 6, 1995, we issued Palmer Limestone a certificate to mine coal incidental to the mining of limestone and shale at their site in Vernon County. The issuance of this permit exemption is under the Strip Mine Law, which is commonly referred to as an old law permit. This eight (8) acre old law coal permit is exempt from the requirements of the permanent program coal law (Surface Coal Mining Law) as long as coal production stays at or below 16 2/3 percent of the shale and limestone tonnage production.

This permit requires annual renewal until reclamation is complete. In order to receive a permit certificate renewal, the operator submits an application along with adequate fees and bond. The operator, Mr. Palmer, did submit a complete application form on December 15, 2008, along with the proper fees. Since adequate bond is on file, it is the recommendation of the staff and director that the Commission issue a renewal certificate to permit OL95-01 for the period from January 1, 2009 to December 31, 2009. Mr. Bill Duly made a motion to follow staff's recommendation and issue a Renewal Certificate on Permit #OL95-01. Dr. Haddock seconded the motion. The motion passed unanimously.

### **Abandoned Mined Lands Status Update**

#### **Abandoned Mine Land (AML) Reclamation Projects**

##### **BILLY CREEK/ BLACKSMITH**

The Billy/ Blacksmith Creek AML Reclamation Project (Adair County) is complete. On November 4, 2008, technical staff from AML and the Missouri Office of Administration, Design and Construction, (OA) conducted a final inspection and accepted all work. Approximately nine acres of Dangerous Piles and Embankments were graded, amended with ag-lime, covered with high quality soil, then seeded and mulched. The total cost of the project was \$306,102.33.

##### **HARRISBURG/THORNHILL**

On November 13, 2008, GREDELL Engineering Resources, Inc. completed the preliminary design of the Harrisburg/Thornhill Reclamation Project (Boone and Howard Counties). This reclamation project considered the design and reclamation of approximately 115 acres associated with six (6) areas of abandoned mine lands located near Harrisburg, Missouri. The scope of work for this project includes excavating and burying coal waste, grading and recontouring the site to eliminate dangerous piles and embankments, eliminating acid pit impoundments, mitigating acid mine seeps, and revegetating the site to reduce erosion. AML staff is currently working with Missouri's Office of Administration to develop an A/E contract and move forward into the final design and development of this reclamation project.

### **WEST MONTROSE RECLAMATION PROJECT**

The AML staff completed the final design of the West Montrose Reclamation Project on January 7, 2009. This project will reclaim approximately 70 acres of barren and eroding mine spoils located in the Germantown area, approximately two miles west of Montrose, Missouri. Reclamation of this site will include elimination of a hazardous pit and highwall located along a county gravel road, grading and recontouring dangerous piles and embankments, eliminating acid water impoundments, and revegetating the barren spoils to control erosion. The U.S. Army Corps of Engineers has determined that the reclamation will not affect waters of the United States, hence the environmental documents were sent to the Office of Surface Mining and an authorization to proceed with the project was requested on January 7, 2009.

### **HIGHLAND HIGHWALL RECLAMATION PROJECT**

The AML staff has completed the initial site investigations and preliminary design of the Highland Highwall Reclamation Project, located near Calhoun, Missouri in Henry County. Reclamation will address approximately 70 acres of pre-law coal mine land where reclamation was basically left incomplete by the mining company. At the time of mining this site, the coal companies were merely required to grade the spoils to slopes traversable by farm machinery, and there was no requirements to backfill and eliminate the highwalls. Hence, reclamation of this site will eliminate the extremely dangerous highwall that is located immediately adjacent to a county gravel road. Additionally, dangerous piles and embankments will be graded and revegetated to control erosion.

### **STROUP SHAFT**

The Stroup Shaft project was completed on Monday, December 29, 2008. This project corrected a shaft subsidence feature located within a storage facility in Joplin, Missouri. The hole was conically shaped with dimensions approximately eight (8) to ten (10) feet deep and fourteen to sixteen feet in diameter. Taking into consideration the location and size of the hole, it was decided that the best course of action was to fill the subsidence hole with concrete.

Calvin Brill was employed to do the work in which he managed the pouring of concrete and placement of cover gravel. The concrete was purchased as a separate contract.

### **WEST FOUNTAIN SHAFT CLOSURE PROJECT**

The AML staff completed the final design of the West Fountain Shaft Closure Project. This project consists of closing six (6) vertical lead/zinc mine openings on private property located northwest of Joplin in Jasper County. All necessary landowner consents, NEPA clearances and written authorization to proceed with the project from the Office of Surface Mining have been obtained. The AML staff has finalized contract documents for an under \$100,000 shaft closure contract to complete this work. A pre-bid meeting was held on January 7, 2009 to allow the contractors to see the site, with bids being due on January 22, 2009. Project completion is expected by spring 2009.

### **BEE HOLLOW RECLAMATION PROJECT**

The AML staff has initiated the preliminary design and development of the Bee Hollow Abandoned Mine Land Reclamation Project located within the Bee Hollow Conservation Area. The project is specifically located approximately one mile west of Highway 63 and approximately ten miles south of Macon in Macon County, Missouri. The proposed project calls for excavating, grading, and/or covering approximately six acres of mine lands that were associated with a past surface coal mine operation. The earthmoving activities will result in leveling dangerous piles and embankments, excavating cover material from overburden spoil ridges, and covering barren and acid-producing coal waste with suitable cover material. After final grading, all disturbed areas will be revegetated with a mixture of warm-season grasses and forbs or cool-season grasses and legumes that are beneficial to wildlife.

### **AERIAL PHOTOGRAPHY CONTRACT**

A contract in the amount of \$22,650.00 was awarded to Aerial Data Service, of Tulsa, Oklahoma, to provide aerial photography and contouring for three (3) upcoming reclamation projects. The work will include photography and mapping of 344 acres at the Montrose Badlands Reclamation Project, Parry Reclamation Project, and the Ardeth Highwall Project. The contract completion date for this work is April 15, 2009.

### **OTHER BUSINESS**

#### **Comments from the Public**

Mr. Steve Rudloff, Missouri Limestone Producers Association, stated he wanted to make comments because his organization was referenced in Mr. Richard Brownlee's comments earlier. He stated that he is sure that Mr. Brownlee has a much greater appreciation for how much the Hearing process costs, because he has to send those companies bills, which he is sure they are very substantial but the Missouri Limestone Producers Association organization understands that the Land Reclamation Commission's obligation to take the comments from the public and weigh the concerns that they have and what is legitimate concerns and what are fears that the Public may have. He wanted to reiterate that that he understands that the Commission does have a difficult job and they wouldn't advocate at all to reduce the Commission's obligation to take comments from the public and to evaluate their concerns and give them due process. He also stated that he would start coming to these meetings to get marketing ideas because Shannon County gave good testimony why crushed stone is better than some other choices for covering roads. As shown earlier, there are good uses for larger stones for erosion control structures on some of the reclaimed land and also it was mentioned the use of ag-lime for the use on abandoned mine lands. This is good marketing testimony for crushed stones. Mr. Rudloff thanked the Commission for letting him make these remarks. Chairman DiPardo thanked him and appreciated his comments.

### **CLOSED SESSION**

Mr. Bill Duley made a motion that the Land Reclamation Commission meet in closed session on March 26, 2009 at 9:00 a.m. for the purpose of discussing personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo, 2003. Dr. Haddock seconded the motion which passed by roll call vote, with all 5 yes votes.

**ADJOURNMENT OF MEETING**

Dr. Haddock made a motion to adjourn the meeting. Mr. Bill Duley seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 12:17 p.m.

Respectfully submitted,

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Chairman