



**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
EAST ELM STREET CONFERENCE CENTER
BENNETT SPRINGS & ROARING RIVER CONFERENCE ROOM
1730 E. ELM STREET
JEFFERSON CITY, MISSOURI
MARCH 26, 2009**

Chairman, Jim DiPardo called the meeting to order at 10:00 a.m., at the Department of Natural Resources, Bennett Springs and Roaring River Conference Room, located at 1730 E. Elm Street, in Jefferson City, Missouri.

Commissioners Present: James DiPardo, Chairman; Joe Gillman, Phil Schroeder (alternate for Kevin Mohammadi), and Bob Ziehmer. Not present: Dr. Gregory Haddock, Vice Chairman; and Nick Matherly.

Staff Present: Bill Zeaman, Chris Thiltgen, Larry Slechta, Mike Larsen, Mike Mueller, Joyce Luebbering, Teri Bibbs, Amanda Weimer, Ron Dumey, Tina Stockman and Leanne Tippett Mosby.

Others Present: Jenny Frazier, Attorney General's Office; Steve Rudloff, Mo. Limestone Producers Association; Richard Brownlee, Attorney representing Journagan , Hendren Andrae, LLC; Larry Coen, Recipient of Resolution from the Commission, Mikel Carlson, Gredell Engineering; and Dan Schuette, Director of the Division of Environmental Quality, Department of Natural Resources.

Approval of January 22, 2009 Meeting Minutes

Bob Ziehmer made a motion to table the approval of the January 22, 2009 Meeting Minutes since three (3) Commissioners out of the four (4) Commissioners present were not present at the January meeting. They thought it would be best to approve them when the other Commissioners are present. Joe Gillman seconded the motion. The motion was carried unanimously.

Commission Resolution for Larry Coen

Leanne Tippett Mosby read a letter to Larry Coen from Col. Riffle and his wife Jean, who were not able to make it to the meeting today because Col. Riffle was needed at the Whiteman Air Force Base for the change of command in the 509th Bomb Wing. The letter was thanking Mr. Coen for his outstanding leadership, advice and guidance that he gave to the Land Reclamation Commission and it will always be remembered. Mr. Coen is a true treasure in the Missouri Department of Natural Resources and as he departs the Land Reclamation Commission as its Director, he has left an indelible mark of outstanding achievements that will always remain in the Department of Natural Resources. Ms. Tippett Mosby also presented a Resolution signed by the Commissioners that she read to Larry Coen. The Program will hold on to this Resolution in order to get the other Commissioners signatures, that were not present, and then we will deliver it

to Mr. Larry Coen. Chairman DiPardo invited any of the Commissioners who wanted to say anything in Larry's behalf to please do so. Mr. Bob Ziehmer stated his appreciation to Larry as he worked with him over the past decade. Larry found himself in a diversity of roles, whether it was helping Mr. Ziehmer out as an employee of the Conservation Department or whether it was working with the County Government, with the Industry, in the Capital on legislation activities or maybe in an Executive session and working with the Commission. Larry has always conducted himself with integrity. He stated Larry has always represented the Program and staff, even in tough situations. He thanked Larry for that. Mr. Jim DiPardo thanked Mr. Coen for helping him out as a Rookie and always standing behind his staff. He appreciated all of Larry's help with understanding the Department policies. He stated that Larry always conducted himself very professionally and always backed his fellow workers. He appreciates having the honor of working with Larry and thanked him for all of the guidance and help that he has given him. Mr. Phil Schroeder thanked Larry for having worked with him as a staff member and he would echo what the others have said about Larry with respect to admirations he has shown both up and down the chain of command. He stated that Larry has large respect for those who expect answers from him as well as people below him that serve him. Mr. Larry Coen stated he has appreciated having the chance to practice geology and is very fortunate to have spent 10 years in industry doing exploration geology and having the opportunity to advance as high as you can go in the area of mining in Missouri. He has enjoyed all of his time and having a good staff and an excellent Commission makes a huge difference. He has always appreciated the professionalism the Commission has shown. He appreciated all that has been said today and all of the good memories. He stated he is enjoying retirement and will see what happens next.

INDUSTRIAL MINERALS

The Acting 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 Commission's information:

Company	Permit #	Mine	Land Use	Acres Released	Amount Released
Spring Creek Materials, Inc.	0865	Shannon County, Big Creek Floodplain #1 Site 1844	Unaffected	4	\$2,000.00
Spring Creek Materials, Inc.	0865	Shannon County, Big Creek Floodplain #2 Site 1845	Unaffected	2	\$1,000.00
Spring Creek Materials, Inc.	0865	Shannon County, Big Creek Floodplain #3 Site 1846	Unaffected	4	\$2,000.00
Spring Creek Materials, Inc.	0865	Shannon County, Big Creek Floodplain #5 Site 1848	1-Water 2-Unaffected	3	\$1,500.00
Spring Creek Materials, Inc.	0865	Ozark County, Frazier Pit #1, Site #2166	Unaffected	5	\$2,500.00
Spring Creek Materials, Inc.	0865	Douglas County, Noel Tooley Farm, Site #1 Site #1823	2-Pasture 3-Water	5	\$2,500.00
Spring Creek Materials,	0865	Douglas County, Noel	¾-Water	1	\$500.00

Inc		Tooley Farm, Site #2 Site #1824	¼-Pasture		
Spring Creek Materials, Inc	0865	Douglas County, Paul Davidson Farm, Pit #3 Site #2166	Unaffected	3	\$1,500.00
Spring Creek Materials, Inc	0865	Douglas County, Tabor Creek, Pit #2 Site #1873	Water	2	\$1,000.00
Spring Creek Materials, Inc	0865	Douglas County, Spring Creek Floodplain, Site #0911	Water	12	\$6,000.00
Winter Brothers Material Company	0010	Jefferson County, Allen Road Site, Site #0021	Water	4	\$2,000.00

Staff presented the above request 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. Mr. Phil Schroeder asked about the sites that were reclaimed where there is water in the remaining land use. When you state that there is good water quality is this based on a visual observation? Mr. Slechta answered that it is done by visual observation, there is no actual testing done. They look at the clarity of the water and if any life in the water is present.

Update of Buildex, Pre-hearing and Site Visit

Leanne Tippett Mosby reported that Parties in the Hearing Request on the Buildex application did attend a site visit and Pre-hearing conference at the location. They met in an Attorney's office first then traveled to the site itself on March 13th, 2009. Ms. Tippett Mosby stated that she thought it was very helpful and informative for all of the parties and it allowed an opportunity for the Company and the Petitioners to interact and get clarification on various issues. The Hearing Officer is Bart Tichenor. Mr. Tichenor laid out a very rough briefing schedule and informed us that the Hearing will be conducted in Jefferson City.

Tabled Hearing Request: Leo Journagan Construction Company, Taney County, 160 acres

Mr. Chris Thiltgen stated at the November, 2008 and January, 2009 Meeting this hearing request concerning the Leo Journagan Expansion had been tabled. He asked the Commissioners to remove the issue from the table so it can be discussed and updates can be given. Mr. Bob Ziehmer made a motion to remove this issue from the table. Mr. Phil Schroeder seconded the motion. The motion carried unanimously. Mr. Thiltgen stated that the Program has received a request to withdraw the Hearing Request. (He handed a copy of the letter to the Commissioners.) Mr. Thiltgen stated since this has been withdrawn there is no other action required by the Commission. Mr. Joe Gillman asked if Mr. Thiltgen knew of the resolution that was reached between the two parties. Mr. Thiltgen said that he is not sure that it is resolved, they are still working on it, but Branson Creek did agree to withdraw the Hearing request while they are working on it. Mr. Thiltgen received this information from Mr. Schneider from Journagan. Mr. DiPardo asked Mr. Brownlee if he would like to mention anything. Mr. Richard Brownlee,

Attorney, Hendren Andrae LLC, representing Journagan, stated most of the negotiations has been done by the individuals themselves, not with Attorney involvement. It is his understanding that they are able to obtain a much better easement from a third party that was not part of Branson Creek, which gives them a lot better access into the new area. He further stated his belief that in exchange there is going to be additional buffer zones set up for them to have protection for their riding facilities.

Mr. Bob Ziehmer asked if the application that the Program and the Director had predetermined that it was complete, has that application changed in any way; and if not can the Commission go ahead and act to move this along, after receiving that letter today. Mr. Zeaman answered that the Program is reconfiguring the maps and the acreage because it was advertised as 160 acres for the expansion and now it is down to 100 acres. This includes a couple of different forms that just simply need to be reconfigured so that they are more accurate. Mr. Brownlee stated that it would be a lesser request, rather than an expanded request where the Program would have to do an additional investigation. Mr. Zeaman agreed that it wouldn't be an additional investigation because it's all the same landowners. Also, because the hearing request has been withdrawn there is essentially no hearing request to vote on.

Mr. Brownlee thanked the Commission and noted this saved the people a lot of money and grief to have it resolved in this manner. Mr. Joe Gillman stated that they completely agree and that is one point that the Chairman has made before; it is a lot better if parties can work cooperatively and reach a resolution. Mr. Brownlee offered suggestions to the Commission and spoke briefly on the criteria involved with the Commission granting hearings.

Mr. Brownlee stated that he worked with Larry Coen for many years including the drafting of some of the laws and he has been truly an incredibly outstanding employee of the State, he has brought a lot of honor to this group. He also stated that in everything that he has been involved with Larry, he has always been fair and impartial and has had his staff in that exact same stand. Mr. Brownlee stated he just can't say enough good about Mr. Coen.

Formal Complaint 2718, Issued to Travis Sand & Gravel

Mr. Bill Zeaman reported that Travis Sand & Gravel operates an 8 acre open pit sand and gravel operation in the flood plain of the Big Piney River. A Formal Complaint is one of the most serious enforcement actions that *The Land Reclamation Act* allows the department to take against an Industrial Mineral mining company and the second to the last step before permit revocation and bond forfeiture. On February 20, 2009 the staff on behalf of the Director issued Notice of Violation 0868-001 for failure to renew a permit for conducting surface mining operations. The notice was sent via certified mail and accepted by Travis Sand & Gravel on February 27, 2009. The notice required the operator to submit a complete and accurate renewal application for conducting surface mining operations, within five (5) days from receipt of the notice. The proposed administrative penalty assessment was set for the amount of \$910.00. The penalty assessment was also accepted by Travis Sand & Gravel on February 27, 2009.

The operator had fifteen (15) days to request an informal conference concerning the proposed penalty assessment and did not take action.

The Rules and Regulations at 10 CSR 40-10.070(3)(A)2, read:

(3) Formal Complaint.

(A) The director shall issue a formal complaint to the commission if the—

1. Abatement measures have not been met within the prescribed time frame;

In this case, the abatement measure timeframe has expired.

Because the permittee has neglected to take any action towards correcting the violation or requesting an informal conference concerning the administrative penalty assessment, the staff recommends that the Land Reclamation Commission sign the Notice of Formal Complaint for failure abate the violation within the prescribed timeframe. In addition, notify the permittee that a formal complaint has been filed against him and that he has fifteen (15) days to either request a hearing, correct the violation which is the basis of this Formal Complaint, or take no action which will result in a recommendation at the May 2009 commission meeting to revoke permit #0981 and request that the Attorney General's Office seek collection of the bond.

Mr. Joe Gillman asked if the Company was still operating and if there was a lot of reclamation work needed. Mr. Zeaman answered no, there is not. Phil Schroeder asked what kind of discussion Mr. Zeaman has had with the operator. Mr. Zeaman stated that they were bankrupt. Chairman DiPardo doesn't want to wait 60 days; there was a brief discussion by the Commissioners and advice from Legal Counsel. A motion was made by Bob Ziehmer mirroring staff's recommendation and also include that if there is no response received within 15 days that the Program initiate the 2nd step which is to engage the Attorney General's Office. Mr. Joe Gillman seconded the motion. The motion was carried unanimously. There was no one present in the audience from Travis Sand and Gravel.

Activities Report Required by the Land Reclamation Act

Leanne Tippet Mosby directed the Commission to the report at Tab 8 in the Commission packet, which is information that is required to be reported to the Commission under the Land Reclamation Act. Ms. Tippet Mosby stated to the Commission that if they has questions or desired additional information the Program will be happy to provide the Industrial Minerals Fees are running very close expenditures to Revenue. Ms. Tippet Mosby also took the opportunity to compliment the Industrial Minerals Staff because they have done a phenomenal job of using technology to improve their efficiency by using laptops and other technology to do their job as efficiently as possible. She also thanked the entire Program staff who has been extraordinary help to her as Acting Staff Director, she stated she can always count on them and they are a very dedicated professional group of people and that is quite a legacy that Mr. Coen left with this Program. Mr. DiPardo agreed and stated that he appreciates all that the Staff is doing, as it makes their job run more smoothly.

Bond Forfeiture Status

Mr. Mike Larsen reported that since the last update provided to the commission on January 22, 2009, the following work has been completed by the program's bond forfeiture staff:

Universal Coal and Energy Co., Inc. – Mine #4 – Howard County

Two contracts were awarded and completed during the past two months for the work remaining to be completed at this former coal mine site. The contracts were for final work relating to erosion control, pond spillway upgrades and minor amounts of soil replacement and revegetation work. This work was completed on the two remaining permanent program permit areas at the former Universal Coal and Energy Co. Mine; #1982-19 and #1981-10. This work was also completed in close coordination with the current landowners and the federal Office of Surface Mining. It is the opinion of staff that all work contracted has been satisfactorily completed. These two permit areas are now ready to be presented to the commission for their release consideration and will be in a separate agenda item later in today's meeting.

The staff will now direct their attention to the two remaining interim law permit areas at Universal's Mine #4. Remaining work on these two areas is very similar to the work completed above and will involve erosion repair, minor revegetation and storm water control. This work is expected to be completed sometime in the next two months with a release presentation to the commission at the May, 2009 meeting weather permitting.

Future Planning:

Further out into this coming year the staff is planning work for two permanent program permit areas at the former Missouri Mining, Inc. coal mine in northern Missouri (Putnam County) and final work at two mines in western Missouri; Amearth Corporation and Midwestern Mining and Reclamation, both in Vernon County.

Coal Bond Forfeiture Responsibility Release Requests

Mr. Mike Larsen reported that 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. One landowner did contact the program with questions which were satisfactorily addressed. These releases are at the Universal Coal & Energy for the following permits: Mine #4 permit #1982-19 for 180 acres and Mine #4 Permit #1981-10(inc. #2) for 23 acres. It is the recommendation of the program's bond forfeiture staff that, as all necessary reclamation has been accomplished, the Missouri Land Reclamation Commission concurs with this recommendation and releases the state from all further reclamation responsibility on the two permit areas of the former coal mining site listed above. Mr. Joe Gillman made the motion that the Land Reclamation Commission concur with this recommendation to release the State from

further reclamation responsibility on the above noted mining sites from Universal Coal & Energy. Mr. Bob Ziehmer seconded the motion. The motion passed unanimously.

PERMITS, CONTRACTS AND DESIGN

Coal Permitting Activities Update

Mr. Mike Mueller reported that this report covers coal permitting activities between January 9, 2009, the date of the last update, and the date this memo was prepared, March 10, 2009.

During this reporting period, Land Reclamation Program (LRP) received nine (9) new coal permit actions that require review and approval. Six (6) 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. Mr. Mueller also reported that they are working on a transfer for Oswego Coal to be transferred to the Continental Coal Company. The staff is waiting on a few submittals from Continental Coal regarding bonding and insurance and once those are received then they will be transferring that permit.

Abandoned Mined Lands Status Update

Abandoned Mine Land (AML) Reclamation Projects

WEST FOUNTAIN SHAFT CLOSURE PROJECT

On March 5, 2009, a contract in the amount of \$48,500.00 was awarded to Freddy Van's, Inc. to complete construction 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. The contract completion date for this work is May 29, 2009.

WEST MONTROSE RECLAMATION PROJECT

The West Montrose Reclamation Project has moved forward into the bidding phase. A pre-bid meeting is set for March 26, 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 re-contouring dangerous piles and embankments, eliminating acid water impoundments, and revegetating the barren spoils to control erosion. The estimated cost is \$950,000.00.

HARRISBURG/ THORNHILL

A request for proposal has been forwarded to GREDELL Engineering Resources, Inc. to complete the final design of the Harrisburg/Thornhill Reclamation Project (Boone and Howard Counties). Staff will be working with the Office of Administration to negotiate the design contract with Gredell Engineering. This reclamation project considers the design and reclamation of approximately 115 acres associated with six 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.

DESOTO SHAFTS PROJECT

The AML staff is approximately 95% complete with the final design of the DeSoto Shafts Closure Project located in southern Jefferson County. This project consists of closing fifteen (15) vertical lead mine openings on private property located four miles southwest of DeSoto. 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 is working to finalize construction documents for advertisement and bid. Project completion is expected by Fall 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. The AML staff is currently working with a consultant to define the federal jurisdictional waters that will be impacted by this work, which includes acquiring a wetland determination approved by the Corps of Engineers. Reclamation will address approximately 70 acres of pre-law coal mine land where reclamation was basically left incomplete by the mining company. Reclamation will eliminate an 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.

BEE HOLLOW RECLAMATION PROJECT

The AML staff is working to design the Bee Hollow Abandoned Mine Land Reclamation Project located within the Bee Hollow Conservation Area. Our staff soil scientist and geologist met on site to characterize the spoil and sandstone materials for design and reclamation purposes. The current scope is to remove an approximate one and one-half acre sandstone embankment through blasting, and covering the surrounding coal waste with spoil. After final grading, approximately six acres of reclaimed area will be revegetated with a mixture of warm-season grasses and forbs or cool-season grasses and legumes that are beneficial to wildlife. Mr. DiPardo asked that when they are doing these projects and find piles of unused material, is the Program allowed to sell that off in order to recoup some of the money or do you use it for fill on the area. Mr. Mueller stated that the landowner could use it at their discretion, but typically the Program uses it for backfill of the features and grates it smooth and revegetate it to control or mitigate erosion.

OTHER BUSINESS

Comments from the Public

Mr. Steve Rudloff, Missouri Limestone Producers Association, stated he has always been impressed by Larry Coen's professionalism and it has always been a pleasure to work with him and he agreed with everything that has already been said. Mr. Rudloff also stated that he has had pleasure of working with a former Director of another DNR program that has similar professionalism and that was Leanne as Director of the Air Pollution Control Program. Her legacy continues of professionalism at that program and he stated that he is sure Larry's will continue here.

Mr. Joe Gillman asked about the status of a House Bill 245. A Bill that has been introduced that would give the Commission the authority to consider current housing density related to issuance of permits. Ms. Tippett Mosby stated that she doesn't think the Department has taken a position in favor or opposed to it, but she stated that the Department has been trying to work with members of the General Assembly to inform them that the Department believes that it would put the Commission in a difficult situation because the language is very vague. Mr. Gillman asked Ms. Tippett Mosby if she knew the status of the House Bill. Ms. Tippett Mosby stated that she did not know the status but would check and let him know. Mr. Bob Ziehmer stated that it was filed by Representative Hodges and it has yet to get a Committee Hearing. There was some discussion on this House Bill. Mr. Steve Rudloff, Missouri Limestone Producers Association, stated he would like to offer for the Commission to hear a Consultant that has done several studies of property values around quarry operations and the length of time properties are on the market. He stated those studies show is that there was really no effect on property values and length of time on the market. He stated he would offer to have the Consultant come and give a quick presentation to the Commission so that they have a chance to ask questions directly. The issue of property values always comes up. The Commission agreed that this would be something that would be of interest.

Mr. Dan Schuette, Director of the Division of Environmental Quality, offered to answer any questions that the Commission may have of the Department. Mr. Schuette stated that he and Larry worked together for 22 years. He hired Larry into the Land Reclamation Program; he was a geologist for a coal mine company in West Virginia. Larry had experience of understanding the coal mining side of the business along with the technical issues. Mr. Schuette stated that it has been a great blessing working with Larry and appreciated Larry's ability to balance work life with his family life and his faith; this is one thing that Mr. Schuette has always admired about Larry.

CLOSED SESSION

Mr. Bob Ziehmer made a motion that the Land Reclamation Commission meet in closed session on May 21, 2009 at 9:00 a.m. for the purpose of discussing activities, issues or any subject allowed for under Section 610.021 RSMo, 2003. Mr. Phil Schroeder seconded the motion. The motion passed unanimously.

ADJOURNMENT OF MEETING

The meeting adjourned at approximately 11:15 a.m.

Respectfully submitted,

Chairman