



**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
BENNETT SPRINGS & ROARING RIVER CONFERENCE ROOM
1730 E. ELM STREET
JEFFERSON CITY, MISSOURI
May 29, 2008**

Chairman, Jim DiPardo called the meeting to order at 10:05 a.m., at the Missouri Department of Natural Resources, Bennett Springs & Roaring River Conference Rooms, located at 1730 E. Elm Street, Jefferson City, Missouri.

Commissioners Present: Jim DiPardo; Dr. Gregory Haddock; Mimi Garstang; Ed Galbraith, Nick Matherly and Col. John Riffle. Not present was Bob Ziehmer.

Staff Present: Larry Coen, Staff Director; Bill Zeaman, Chris Thiltgen, Larry Slechta, Mitch Roberts, Mike Larsen, Andy Reed, Mike Mueller, Joyce Luebbering, Dave Dowdy, Larry Hopkins, Guy Frazier, Teri Bibbs, Colleen Kenny, Steve Femmer and Tina Stockman.

Others Present: Harry Bozoian, Attorney General's Office; Mike Carlson, Gredell Engineering; Steve Rudloff, Missouri Limestone Producers Association; Jane Martin, Scotts Concrete; Penny Umstatt'd-Cope, Currant and Sickle for Scotts Concrete; Bee Enowski, Enowski Farm; John Breuner, Enowski Farm; George Denny, Enowski Farm; Drew Shauffler, Attorney for Bee Enowski; Brian Brewner, Enowski Farm; Sarah Collier, DNR DEQ; Travis Morrison, Spring Creek Materials; Kathy Morrison, Spring Creek Materials; Joe Gillman, DNR/GSP; Linda Canter, land owner of Bryant Creek; Daniel Roth, Elixir Land Friends, LLC; and David Floyd, Harbison-Walker.

MINUTES OF THE MARCH 27, 2008 MEETING

Col. Riffle made a motion to approve the March 27, 2008 meeting minutes as written. Dr. Haddock seconded the motion. The motion was carried unanimously.

INDUSTRIAL MINERALS

Dredging Incorporated, Review of Issues & Recommendation to Release

Andrew Reed stated that this site was planned for presentation to release. However, we have learned that all vegetation has been removed and is no longer stable, so staff can no longer recommend for release. The Dredging Incorporated Gravel Pit located in Miller County was initially permitted by Enowski Livestock Farms, and transferred to the present operator, Dredging, Inc. in 1994. Presently the operator (Jane Martin) and landowner (Bee Enowski) are disputing the final reclamation of the site.

A list of reclamation requirements was generated in 2001. When the operator began to reclaim the site in accordance with the 2001 agreement, the landowner locked out the company, and did not allow reclamation efforts to continue. There has been some equipment clean up at the site, since the lock out, however the site has remained mostly idle since 2001.

In 2005 Andy went out with the Solid Waste Program to investigate the complaint of solid waste disposal in the pit. The owner left the property so they ceased digging with a back hoe. Subsequently, the Solid Waste Program issued a letter of no further action for solid waste issues at the site.

An Inspection conducted in October of 2007 was intended to document the status of the site, and attempted to bring both parties into an agreement and allow final reclamation at the site to proceed. At the end of the inspection all parties verbally agreed to a reclamation plan, as outlined in a report dated October 19, 2007. According to the operator, shortly after the report was received by the both parties, the landowner and her attorney sent a letter to the Operator requesting additional reclamation efforts be completed at the site, beyond what was agreed to during the October 2007 inspection. It is the opinion of Program staff that the operator had made a good faith attempt to complete reclamation efforts as of the site visit last October 2007.

The operator submitted a letter dated January 18, 2008 and received by the Program on January 22, 2008, stating that the "Solid Waste Commission" has signed off on the project and respectfully requests that the Land Reclamation "Board" release the Dredging Inc. site. Enclosed with this packet is a copy of a letter from the Solid Waste Management Program received by the LRP on January 5, 2006. The letter states "...the lack of any reclamation activities at the site is causing a greater environmental concern than the de minimus amount of solid waste witnessed on one small edge of the pit."

After receiving the January 18, 2008 letter from Dredging, Inc. the Program Staff requested the operator submit a revised mine plan which Ms. Enowski would agree with in order to complete reclamation at the site. The operator did meet with Program staff on February 20, 2008, and completed a new mine plan that addressed reclamation at the site, in accordance with the agreements made during the October 2007, inspection. The operator sent the revised mine plan via certified mail and was signed for on March 27, 2008. To date, the operator has not received concurrence from the landowner regarding this revised mine plan.

On April 28, 2008, the Land Reclamation Program received a Request for Approval of Reclaimed Land form from the operator, officially requesting the site be released of liability and bond. On the same day the operator submitted the release form, a letter was sent to Ms. Enowski, informing her of the release application. Ms. Enowski had 30 days from the date of the letter to submit a formal request for a hearing if she believes the land affected by surface mining does not meet performance standards. The last day to receive this request was May 28, 2008. A hearing request from the landowner was received by the program on May 21, 2008. During the October 17, 2007, inspection, it was documented that the site did meet the release requirements for Wildlife and Water post mining land uses.

On May 23, 2008, the landowner through her attorney submitted another letter with a DVD showing that all vegetation had been removed from the site, basically in an attempt to eradicate Johnson grass and to allow better visibility of the surface condition of the soils at the site. Unfortunately, this action by the landowner destabilized the site by removing any vegetation that would have controlled erosion. The site is no longer acceptable for bond release by the program. Andrew Reed presented a power point presentation showing the reclamation history at this site since 2000. Ed Galbraith asked Andrew Reed if the site met all released standards in October, 2007. Andy explained that this is not a straight forward issue. There is no complete reclamation plan on file, and there were some cleanup items the operator agreed to complete after the October Inspection. Because the landowner and operator could not agree on the details, this work was never completed. However, Staff does feel that the site was stable and releasable in October 2007. Col. Riffle asked why the vegetation was burned. Andrew Reed responded that he would need to ask the landowner.

Drew Schaffler, attorney for Ms. Enowski, presented her concerns for this property. He renewed his request for a hearing prior to bond release approval. He explained that the lockout lasted only for one day, and was based on reports to Ms. Enowski that the operator had improperly buried solid waste at the site. He also explained that while the permit is for only 4 acres, as many as 14 acres have been affected by Dredging, Inc. Lawsuits and countersuits have been filed by both parties over the solid waste issues. There are large railroad tresses and concrete dredge anchors at the site that need to be removed, as well as many pieces of smaller debris across the land. The landowner does not agree that the site was stable in October 2007 only that because of the thick Johnson grass, erosion could not be observed. The landowner would like all fourteen acres leveled out for future site development and the seeding of proper vegetation.

Dr. Haddock asked whose idea it was to remove vegetation from the site. Mr. Schaffler explained that this had been discussed in October and the landowner did this in order to more accurately record site conditions. Jim DiPardo asked Andrew Reed if the Johnson grass was discussed in October. Mr. Reed replied that it was discussed but after some research staff concluded that it was ineffective to try to remove and that the Johnson grass was creating stability for the site.

Ed Galbraith asked if there was active erosion in October 2007. Mr. Schaffler said that he observed active erosion at that time. Ed then asked if there was a specific required vegetation species for this site. Mr. Schaffler explained that they preferred the use of species that are identified in the current site reclamation plan. Ed then asked if the site appeared stable in October 2007 why that was not good enough. Mr. Schaffler explained that Johnson grass was not an approved species and needed to be removed. They want to achieve final reclamation that includes approved species after proper grading. Ed asked if the landowner disturbed areas outside the mine plan. The answer was only the removal of Johnson grass. Ed finally asked what needs to be done to finalize reclamation at this site. Mr. Schaffler explained the extent of fourteen acres of disturbance, proper grading of the site as well as the establishment of proper vegetation species. Finally they want to make sure of debris removal from the site.

Col. Riffle asked how the Johnson grass got started, but no one knows. Dr. Haddock asked more about the concrete anchors and the railroad tresses, which were explained.

The Commission asked for a complete list of what the landowner wants at this site. Mr. Schaufler explained that they want the concrete anchors, railroad tresses and other debris removed, they want the site graded to a three to one slope, they want the site vegetated with the proper seed mixture, they want all the affected acres to be reclaimed, and they want the topsoil stockpiles left for the landowner's use.

Mr. George Denny then addressed the Commission. He is a professional photographer who was hired by Mr. Enowski over ten years ago, before his passing, to document activities at the site. He personally saw solid waste being improperly disposed in the pit at the mine site. He also saw solid waste disposed a half mile away into the Osage River.

Mr. Brian Brunner, Ms. Enowski's grandson, stated that there are concrete and metal pieces all over the site that should be removed.

Ms. Enowski then addressed the Commission. She stated that Andrew Reed refused to listen to her concerns about solid waste disposal at the site. She stated that Bruce Travis from Solid Waste and an employee of Dredging came down and destroyed all the reclamation at the site. She is also concerned that reclamation cannot be done in the spring due to high water which covers part of the area to be reclaimed. She also complained about erosion of the bank along the Osage River. Finally she stated that this site is in the middle of acreage that she is developing as a campground and would like to see the site completed so that she can finish the campground project. Mr. Galbraith asked if she had received a reclamation plan and consent to enter from Ms. Martin in February. Ms. Enowski said yes, but did not think it was complete so she gave it to her attorney.

Ms. Jane Martin of Dredging, Inc. then addressed the Commission. She stated that her business is highly regulated. She has storm water, air and mining permits. She has met with state inspectors many times and is willing to do whatever it takes to get out of this site. She has never disposed of solid waste improperly, although she has removed solid waste from the site that was placed there by others unknown to her. She understood that the site was stable in October 2007 and was releasable. Mimi asked why if the mine plan consists of 4 acres were 11 or more acres affected? Mrs. Martin agreed that they had affected more acres than permitted. They received a Notice of Violation because of this action.

Jim DiPardo asked if the lockout some time ago was only for one day. She was not sure how many days, but she remembers it being for more than just one day. Jim asked about the concrete and steel and she explained she is willing to remove anything they see during reclamation.

Nick Matherly asked if they had washed out their cement trucks on the edge of the pit. Ms. Martin explained that they use to as Mr. Enowski told them to. However after he reversed that decision they ceased that practice. Ed Galbraith asked if she was willing to do everything that was outlined in October 2007 and she affirmed that they were willing. He then asked about the additional items they have raised.

Ms. Martin’s attorney, Penny Umstatt’d -Cope, Curran & Sickal, stepped in to say that they must answer this question very carefully, because there is pending litigation that goes beyond the scope of reclamation regarding their mining permit obligations. However, Ms. Martin said in terms of reclamation they could grade all affected areas, clean up the site and vegetate with approved species of grasses.

Jim DiPardo asked when the lawsuit was filed. Both parties explained that they were filed some time ago. First a lawsuit was filed by Dredging, Inc., for conversion after the lockout and a countersuit was filed by Enowski farms. Dr. Haddock asked if the Commission is still considering the hearing request today. Mr. Coen replied that the Commission does not have to decide that today. The Commission can table this issue and request that the two parties work this out.

Mimi asked what reclamation has been completed at the site. Ms. Martin explained that they have cleaned up the site in the past and grading was done in the past, but the landowner stopped any further work. No agreement has been reached to date on how to proceed now.

Ed Galbraith asked Andrew Reed if the October 2007 work identified was done, would that be good enough. Andy explained that the site was well vegetated then. Now, erosion would have to be repaired and new vegetation planted. Jim DiPardo asked if both parties are willing to talk, and they agreed to do so. Mimi stated that if we are going to table this we need to bring it back in July and not let this continue any longer.

A motion was made by Ed Galbraith to table this issue until the July Commission meeting, but that both parties must agree to a plan by the first week of July. Dr. Haddock seconded the motion, which passed unanimously.

Everyone took a break from 11:35 a.m. – 11:45 a.m.

Industrial Bond Release Requests Approved by Staff Director

The Staff Director of the Land Reclamation Program has reviewed, evaluated, and approved the following Industrial Mineral bond release request. This summary was provided for the Commission’s information.

Company	Permit #	Mine	Land Use	Acres Released	Amount Released
APAC-Missouri	0688	Quarry #14 Site 0646	Development	6	\$3,000.00
Hunt Midwest Mining-Green	0102	Blue Mound 0127	Wildlife/Industrial	20	\$10,000.00
Hunt Midwest Mining	0058	Pattonburg 0080	Agriculture	25	\$12,500.00

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.

Hearing Request Concerning the Permit Expansion Application for a new sites sought after by Spring Creek Materials, Inc., Frazier Sites, 5-acres (In-Stream), 5-acres (Pit) for a total of 10 acres; Ozark County

Chris Thiltgen first passed out a letter from Petitioner Leslie Collins who could not be at today's meeting. He then presented that on October 12, 2007, the Missouri Department of Natural Resources, Land Reclamation Program received a permit expansion application from Spring Creek Materials, Inc., proposing to open two new sand and gravel mine sites on 10-acres (5-acres In-Stream, 5-acres Pit) in Ozark County. After the application was deemed complete, the company published the public notice once a week, beginning on February 20, 2008 for four consecutive weeks in the *Ozark County Times*, a newspaper that is qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in Ozark County. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials. Letters were sent by certified mail to landowners considered adjacent and contiguous to the mine plan area. This proposed permit expansion application of a 10-acre (5-acres In-Stream, 5-acres Pit) sand and gravel mining operation is located in Sections 16 & 21, Townships 23 North, and Range 12 West in Ozark County. The proposed mine operation timeframe is to the year 2050.

The Staff Director received letters during the comment period concerning the proposed permit expansion application. Many letters provided comments, a requests for a public meeting and requests for a hearing. During a telephone contact we learned that Spring Creek Materials, Inc. respectfully declined to hold a public meeting. We are aware that the operator did attempt to make contact with the petitioners.

According to the rules and regulations at 10 CSR 40-10.080 if the applicant does not agree to the public meeting then the petition may be referred to the Commission for a formal public hearing. All of the letters that requested a public meeting within public notification timeframe requirements also requested a hearing. We have hearing request records on file that were signed by David Haenke, Natalie Mannering, Daniel Roth and Leslie Collins. Therefore we present a request for a hearing before the commission at today's meeting, May 29, 2008. On April 4, 2008 the Staff Director did send a letter informing the people requesting a hearing of the time, location of and how to prepare for the May 29, 2008 Commission meeting.

There are a variety of concerns surrounding this proposed permit expansion application. The Land Reclamation Act addresses the issues of public notification requirements, permit expansion denial, a request for a public meeting, and requests for a hearing. The Missouri Department of Natural Resources does provide protection concerning issues of permitting / operation requirements, mining and the environment permit denial, no bond required, sediment and run off

in to the creek system and protection of wildlife/aquatic resources. The Department does not provide protection concerning length of time a company can mine, flooding, disruption of recreational activities, potential impacts on businesses or mining in a residential area.

The Land Reclamation Act at Section 444.773.3, RSMo, requires that the Staff Director make a formal recommendation regarding the issuance or denial of an applicant's permit. In addition, the "Act" at 444.773.1, RSMo, requires the Director to consider any written comments when making the notice of recommendation. After consideration of issues provided in letters, it is the Director's recommendation to issue the permit expansion application, for a new site involving 10-acres (5-acres In-Stream, 5-acres Pit) in Ozark County sought after by Spring Creek Materials, Inc. The Director's recommendation for approving this expansion application for a new site is based on the fact that the company has satisfied the requirements for application completeness. This completes the first step of a two step process. 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.

Travis Morrison, owner and operator of Spring Creek Materials, stated that he would be glad to answer any questions if the Commission has any after listening to petitioners. He stated that he did meet with several petitioners before today's meeting and answered many of their questions.

Ms. Linda Cantor spoke to the Commission explaining that they own property along Bryant Creek. Bryant Creek is a favorite float stream because it is very pristine and is lined with native bamboo. It is a breeding ground for endangered species including the Hellbender. Damages from mining can last for hundreds of years. Pit mining in the flood plain is OK, but affecting fish habitat and causing siltation into the water is not OK.

Daniel Roth explained that he represents Elixer Land Farms, LLC. They have guests at the farms primarily because of the pristine condition of Bryant Creek. He stated that this river should be protected for its rare species of aquatic life, and is very concerned about the permit time of 42 years. He explained that Crooked Creek in Arkansas is a similar river system, which was declared off-limits for mining by the state. He felt that the same sort of decision should be made for Bryant Creek in Missouri. At the least he would like to see a shorter time frame for the permit.

Mimi asked if there is any way to change the length of time of the permit to satisfy some of the Petitioners concerns. Mr. Coen replied that the statutes have no requirements about the length of the permit and it is the operator's choice to pick the time in his application. Dr. Haddock asked Mr. Coen to explain the limits placed on gravel mining in our rules. Mr. Coen explained that operators cannot get equipment in the water, but must stay 10 feet away from the water, they cannot mine lower than the water level, and they cannot remove vegetation from the bank next to the gravel bar. There are additional conditions when mining gravel in Outstanding Resource Watersheds. There are in all 15 conditions that apply to all gravel mining. Dr. Haddock commended the Petitioners for being interested and they should continue to monitor the conditions along the waterways. Mr. Morrison explained to the Commission and Petitioners how he operates and what his plans are. Bill Zeaman explained that the permit is not transferable without a new public comment period and a new application. Mr. Morrison explained that there

have been gravel operations on Bryant Creek in the past and the land owner has asked him to come back and remove gravel that is causing flooding along his property.

Dr. Haddock made a motion to follow the staff recommendation to grant the permit and deny the request for hearing. Col. Riffle seconded the motion which carried unanimously.

W & W Sand and Gravel, Inc.: History of Events and Formal Complaint #2710 for failure to pay the required statutory fees for obtaining a permit

Bill Zeaman explained that a formal complaint is the most serious enforcement action that the Program takes against a mining company and the last step before a permit revocation.

On September 4, 2007 the Land Reclamation Commission received a permit renewal application and a check made payable in the amount of \$300.00 to renew a permit certificate. On September 5, 2007 the Land Reclamation Commission issued a permit renewal certificate to W & W Sand and Gravel, Inc. On September 12, 2007 the Land Reclamation Commission was notified that the check was returned for non-sufficient funds. On October 5, 2007 Guy Frazier informed the operator by electronic mail that the check was returned for insufficient funds and requested this issue be corrected. On October 16, 2007 Guy Frazier attempted telephone contact with the operator and left a voice mail informing him of the returned check and requested that this issue be cleared up. On November 9, 2007 a final demand for payment was sent to the operator via certified mail providing the operator an opportunity to get this issue corrected within seven days. The operator did not take any action within those seven calendar days and has not taken any action to date.

Because the permittee has neglected to take any action towards providing required statutory fees in order to obtain a permit, the staff recommends that the Land Reclamation Commission signs the Notice of Formal Complaint for failure to provide the required statutory fees to obtain a permit and to notify the permittee that a formal complaint has been filed against him and that he has fifteen (15) days to either request a hearing, abate the failure to provide fees which is the basis of this Formal Complaint, or take no action which will result in a recommendation at the next regularly scheduled commission meeting to either suspend or revoke permit #0824 and forfeit the bond to the Land Reclamation Commission.

Jim Dipardo asked if the Operator is mining now and Mimi asked if he is mining in another location. Bill Zeaman answered no. Dr. Haddock made a motion to revoke permit #0824 if the Operator does not respond to this Formal Complaint within 15 days of receipt. Col. Riffle seconded the motion which carried unanimously.

Formal Complaint 2712 issued to Colonial Limestone, Inc., Failure to Abate Notice of Violation 0294-012.

Bill Zeaman explained that he attempted to contact this Company a number of times with no results. On April 23, 2008 Notice of Violation # 294-012 was received by the operator. The violation was issued for failure to renew a permit certificate to complete reclamation operations as part of the statutory requirements for surface mining in Missouri. On May 8, 2008 the

abatement of the violation was due. To date the operator has not taken any action to abate this violation or to intervene in this process.

As all regulatory time frames for appeal of the Notice of Violation have expired, and the operator has failed to submit required documents and fees to abate the Notice, the staff recommends that the Land Reclamation Commission sign the Notice of Formal Complaint for failure to abate Notice of Violation #294-012 and notify the operator that a formal complaint has been filed and that the operator has fifteen (15) days to request a hearing. Dr. Haddock asked about the location. Bill Zeaman explained that it is in Mercer and Putnam Counties and Mimi asked if they are mining now and Bill said no. Dr. Haddock asked if this was the same company that the Commission took action against a few years ago. Larry Coen replied that it was. Col. Riffle made a motion that the Commission revoke permit #0294 provided the operator does not respond within 15 days of the receipt of notice of the Formal Complaint. Dr. Haddock seconded the motion which carried unanimously.

COAL BOND FORFEITURE STATUS UPDATE

Since the last update provided to the commission on March 27, 2008, staff have been working on several aspects of bond forfeiture including both coal and non-coal. Engineering staff have prepared a set of reclamation designs and a plan of work for the former National Refractories and Minerals Baumgarth "BS" clay mine. These plans and designs have been sent to the landowner of the mine site for his review. It is the expectation of the program that work will begin in the next four to six weeks at the site.

Staff has also been working with the landowner of a former coal mine site located in Putman County in north central Missouri. The staff have corresponded with the landowner in order to prepare the former mine site for a release presentation before the commission in a separate agenda item later in the meeting. This former mine site was operated by Missouri Mining, Inc. during the late 1970's and early 1980's and is known as Mine #4. If approved by the commission this 21.3 acre release area will finally remove this entire mine site from the list of coal bond forfeiture projects.

Staff has prepared a second release request for the commission concerning coal bond forfeiture. This second request is for the last bit of unaffected land currently on the list of coal bond forfeiture acreage. This unaffected release is for 144.0 acres at a permit area located in Ralls County at the former Riedel Energy, Perry mine site. This request will also be presented to the commission for their consideration in a separate agenda item later in this meeting.

Mr. Larsen then updated the commission on the progress that has been made in releasing coal bond forfeited lands during the past 12 months. Last March he provided the commission with a summary of the progress made with respect to coal bond forfeiture work and releases from July 1, 2005 to the end of March, 2007. At that time the program had worked on and provided release for 3,578 acres. We had started with 6,950 acres on July 1, 2005. Therefore we had obtained release on over 51% of the lands that were in forfeiture.

Since July 1, 2007 and including the releases to be proposed later in today's meeting, the staff has accomplished work on and obtained release for 851.3 acres. This brings the total acres released from coal bond forfeiture lands since July 1, 2005 to 4,429.3 acres. We started with 6,950 acres and have obtained release on 4,429.3 acres. Therefore, we have accomplished a release of 64% of the lands that we originally started with. Staff views this as good progress over the past three years or so. We have approximately one-third of the land that we started with that remain to be addressed.

COAL BOND RELEASE REQUEST

The Land Reclamation Program's bond forfeiture staff has evaluated the following former coal mine sites during the past two months and is presenting them to the commission for their release consideration. The first site has undergone permit revocation and bond forfeiture by the commission in the past. The second site, formerly permitted by Riedel Energy, Inc. is a release of unaffected acreage.

The first site, Missouri Mining Inc. Mine #4, Permit # 78-25-A2 and 78-25, totaling 21.3 acres, has been reviewed jointly with the Office of Surface Mining and, in addition, all current landowners of record have been notified that this site is to be recommended for complete and final release at this meeting of the Land Reclamation Commission. As of the date of this memo, no comments or objections have been received.

The second site, Riedel Energy, Inc., Perry Mine, Permit # 1987-02, 144 unaffected acres, proposed for release has been discussed with the Office of Surface Mining which has expressed no objection to the release. No landowners were notified of the unaffected release because of the undisturbed nature of the acres involved. As the commission will note, there remains 197 acres upon which the program will have to provide some level of repair. At the time those acres are proposed for release all landowners of record will, of course, receive proper notification.

It is the recommendation of the program's bond forfeiture staff that the Missouri Land Reclamation Commission concurs with this request and releases the state from all further reclamation responsibility on the permit areas of the former coal mining sites listed above. Col. Riffle made a motion to accept the Staff's recommendation to release the State from any further liability on Mid-Missouri Mining Mine #4 and 144 unaffected acres of Reidel Energy Perry Mine. Dr. Haddock seconded the motion which carried unanimously.

Update On Proposed Coal Rule Revisions

In response to a request to change the current coal regulations by the Office of Surface Mining, the program has begun the process of rulemaking. As explained to the commission at the last meeting these changes are, by and large, very minor in nature. The first step has been taken by the program which is to request the authority to begin a rulemaking from the department's Division of Environmental Quality and the division legal counsel. Both entities have reviewed this request to begin a rulemaking and have granted their approvals.

The purpose of this memo is to advise the Land Reclamation Commission that this rulemaking process is poised to formally begin now that authority has been granted and to request that the Commission sign a "Finding of Necessity" which is a statutorily required document and a part of the rulemaking process. Additional updates regarding these rules will be provided to the commission at future meetings as necessary.

It is the staff's recommendation that the commission signs the "Finding of Necessity" for these rule amendments and instructs the staff to proceed with the development of the proposed rulemaking. Dr. Haddock made a motion that the Commission sign the Finding of Necessity and instruct the staff to proceed with the rulemaking. Col. Riffle seconded the motion which carried unanimously.

PERMITS, CONTRACTS AND DESIGN

Coal Permitting Activities Update

This report covers coal permitting activities between March 27, 2008, the date of the last update, and the date this memo was prepared, May 14, 2008.

During this reporting period, the program received four (4) new coal permit actions that require review and approval. Two (2) of these permit actions were finalized during this reporting period and the two (2) remaining permit actions are still under review. Program staff reviews are proceeding on schedule.

Abandoned Mine Lands Status Update

Abandoned Mine Land (AML) Reclamation Projects

Aurora Shafts

A construction contract in the amount of \$63,910.40 was awarded to Ron Reed Dozing, of Sheldon, MO, for completing the Aurora Shaft Closure Project. The company mobilized and constructed permanent concrete plugs for three of vertical openings that are located within or immediately adjacent to Baldwin Park, in the City of Aurora. Due to extreme wet weather and site conditions, the program initiated and approved a 60-day time extension in efforts to minimize disturbance of private property at the remaining two shaft locations. A contract change order in the amount of \$3,537.80 was approved to compensate for remobilization and water pumping costs. The new completion date is August 6, 2008 for a total cost of \$67,448.20.

Vogt Shaft

A construction contract in the amount of \$18,027.72 has been awarded to Kirchner Excavating, of Morse Mill, MO for completing the Vogt Shaft Closure Project. This shaft closure project will close an extremely dangerous lead mine shaft located within 50 feet of a residence near the City of Hillsboro in Jefferson County. The access road has been constructed and approximately 150 tons (25%) of shot rock fill has been placed in the vertical opening. Wet weather and

saturated ground conditions have delayed the completion of this project. The contract completion date for this project is June 12, 2008.

Billy Creek/ Blacksmith

Design of the Billy Creek/ Blacksmith AML Reclamation Project is complete and has been sent to the Office of Administration for review and bidding. This project will include the reclamation of two eroding gob piles in Adair County, located approximately 10 miles west of Kirksville. The proposed work will include regrading and eliminating several dangerous gob piles and embankments, treating and covering exposed gob and coal waste, and revegetating seven acres of land associated with the two abandoned underground coal mines. Reclamation is being completed to prevent continued erosion and to reduce the amount of acid-forming sediments that are being discharged into the local waterways. Office of Administration staff has reviewed the design plans and advertised project for bid. There will be a prebid meeting held on June 10th with a final bid opening date of June 26th.

West Ken Coal

The AML staff continues to conduct investigation and design activities on the West Ken Coal Reclamation Project (Jasper County). The staff has been coordinating with the MDNR Hazardous Waste Program; US. EPA Region 7 Superfund Division; and The Doe Run Company to discuss the proposal to use lead/ zinc mine tailings for fill in the pit. The program staff have successfully completed the stratified water sampling of the pit. Staff are currently working with the US Department of Interior, Office of Surface Mining's technical personnel to adequately interpret the water chemistry data.

Harrisburg/ Thornhill

Gredell Engineering Resources, Inc., of Jefferson City, has been awarded a consultant engineering services contract in the amount of \$59,000.00 for development of the Harrisburg/ Thornhill Reclamation Project (Boone and Howard Counties). The scope of services includes landowner consultations, aerial photography, characterization of the site, and development of conceptual designs that address the health, safety, and environmental features while also meeting the post reclamation land uses of the landowners. To date, GREDELL Engineering Resources, Inc. has met with the majority of the landowners and has subcontracted aerial photography and mapping services.

West Montrose & Highland School High wall Projects

Aerial photography and topographic mapping for the West Montrose and Highland School High wall Projects (both in Henry County) are complete. The program staff have accepted the data and proceeded with the preliminary on-site investigation and design activities at these sites.

AML Emergency Program

All drilling and grouting work including site clean-up at the Mindenmines Emergency Subsidence Project has been completed. No AML coal emergency complaints have been received since the last commission meeting.

AML Maintenance Activities

Staff are currently working to establish a green cover crop at the Rocky Fork Reclamation Project in Boone County. As planned, a summer annual crop of pearl millet will be planted to provide additional organic matter and erosion control measures. The final seeding of native warm-season grasses is expected to be planted in the spring of 2009.

Thirty 1-1/2-inch diameter pin oak trees were planted at the Mindenmines Emergency High wall Project in Barton County. These trees were planted to replace those lost through previous summer droughts at an estimated final cost of \$1,262.50. During the fall of 2008, the program staff will reseed approximately four acres of poorly vegetated pasture at this site.

OTHER BUSINESS

July Field Trip

Larry Coen updated the Commission on the tour in July with a visit to the Open Mine Shafts in Jefferson County and a tour of the Holcim Plant. The Holcim Plant is not open for business yet, but is still under construction. We are working with the hotel on the details. We will keep everyone updated.

Hearing Officer Status Report – Magruder Quarry, Miller County

The Hearing Officer assigned to this case is Mr. W.B. Tichenor. The hearing has so far lasted four and a half days; the evening of March 24th, April 28th through April 30th, and most recently on May 23rd. It is the purpose of the formal hearing to determine whether or not the permit should be issued based upon the evidence presented at the hearing. The Hearing Officer expects to make a final recommendation back to the Commission around July 1st.

Larry Coen reported on the remaining dates that are scheduled for the Magruder Limestone Company Hearing which are Wednesday, June 4th and Friday, June 6th. It has been a very lengthy hearing. Ed Galbraith reported on what he had learned from attending the Hearing on Friday, May 23rd, by listening to the testimony he encouraged all of the Commissioners to attend if possible.

Industrial Minerals Activities Report 2007

The 2001 changes to the *Land Reclamation Act* require an annual report to the commission as noted in the following section of the Missouri Revised Statutes:

444.772.4. The director shall submit a report to the commission and the public each year that describes the number of employees and the activities performed the previous calendar year to administer sections 444.760 to 444.790.

The act does not define any further what this report should contain, so the program is providing the Commission with the following information for calendar year 2007.

Industrial Minerals income:	\$409,273.36
Industrial Minerals expenses:	\$424,966.65
Balance of the Fund on 12/31/2006:	\$64,646.71
Number of full time employees:	6.60
Industrial Mineral Permits Processed:	352 permit applications
Industrial Mineral Bond Releases Processed:	29 (595 acres)
Industrial Minerals inspections:	216 site inspections
Industrial Minerals enforcement actions:	1 enforcement action issued
Industrial Minerals public meetings:	2 informal public meetings held
Industrial Minerals hearing requests:	4 hearing requests presented
Industrial Minerals hearings granted:	1 hearing request granted

Staffing Update

It was reported that Mike Mueller (Coal) was promoted to an ESIV (Unit Chief) in the AML Program. Mitch Roberts transferred from Industrial Minerals to AML. Two positions were filled in Industrial Minerals: David Dowdy, ES III and Joyce Luebbering, ES III, both were employees with the Soil and Water Program. We also have hired a Summer Intern, Colleen Kenny, who started employment with the Program on May 19th, assisting with scanning projects and other duties in the Program. Andy Reed has accepted a lateral transfer to Hazardous Waste Program; his last day is May 30th. Guy Frazier (Industrial Minerals) has accepted a lateral transfer to Coal (Andy’s position), starting on June 2nd. Amanda Weimer has been hired in the Industrial Minerals Section (to fill Guy’s position) who will also start employment on June 2nd. Larry explained that due to the work load and phone calls received we have hired a temporary receptionist, Trisha Denny, who started employment with the Program on May 5th.

COMMENTS FROM THE PUBLIC

No comments from the public.

CLOSED SESSION

Col. Riffle made a motion that the Land Reclamation Commission meet in Closed session on July 24, 2008, prior to the open meeting for the purpose of discussing personnel actions, legal actions or causes of actions or litigation as provided for in Section 610.021, RSMo 2003. Dr. Haddock seconded the motion. Motion carried unanimously.

ADJOURN

Col. Riffle made a motion to adjourn and Mimi seconded the motion. The motion carried unanimously. The meeting adjourned at 1:15 p.m.

Respectfully submitted,

Chairman