



**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
ELM STREET CONFERENCE CENTER
1730 EAST ELM STREET
JEFFERSON CITY, MISSOURI
SEPTEMBER 25, 2008**

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

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

Staff Present: Larry Coen, Staff Director; Bill Zeaman, Chris Thiltgen, Larry Slechta, Mike Larsen, Mike Mueller, Joyce Luebbering, Dave Dowdy, Larry Hopkins, Teri Bibbs, Larry Teson, Ron Dumey, Teresa Schubert, Amanda Weimer, Steve Femmer and Tina Stockman.

Others Present: Harry Bozoian, Attorney General's Office; Steve Essner, Melvin Essner, Jay Cassout, Land Owner; Carole Reddick, Land Owner; Carl Reddick, Land Owner; Jim Wallace, Isabella Ready Mix, Ron Eskew, City of Scott City, Glenda Blattel, State Representative Hodges Office, Marshall Hardison, MMD Stone; Theron Broadfoot, Gredell Engineering; Mike Carlson, Gredell Engineering; Norman B. Harty, Seminole Ag Lime; Steve Rudloff, Mo. Limestone Producers Association; Tony Benz, Senator Frank Barnitz Office, Mo. State Senator; Fred, Peggy, and Dustin Lewis; property owners in Ozark County; Jean Riffle, Col. Riffle's wife; Alan Blow; Land Owner; Bruce Loy, Cape Girardeau Airport; Brian Benskoetter, Mining Industry Council of Missouri; James Rolls, AEI; Mark Newell, Land Owner; Raymond G. Martin, Land Owner.

Approval of July 23rd and 24th and August 18th, 2008 Meeting Minutes

Col. Riffle made a motion to approve the July 23rd, 24th and August 18th meeting minutes as written. Ed Galbraith seconded the motion. The motion was carried unanimously.

INDUSTRIAL MINERALS

Referral to Attorney General's Office for Collection of Bond – W& W Sand & Gravel, Inc

W&W Sand and Gravel, Inc. were issued a notice for failure to pay the required statutory fees of \$300.00 to renew their permit. The operator received this notice by certified mail on November 19, 2007, and failed to submit those fees.

At the May 29, 2008, Land Reclamation Commission meeting, the Staff Director filed a Formal Complaint with the commission concerning the failure to pay the required statutory fees to obtain a permit. The complaint was approved and signed by the commission at that meeting. Subsequently, the operator received the Formal Complaint by certified mail on June 6, 2008, and was provided a fifteen (15) day opportunity to request a hearing or pay the required fees. Unfortunately, the operator was unresponsive in either paying the fees or requesting that a hearing be held. The complaint specified that a failure to either pay the fees or request a hearing within a fifteen day timeframe of receiving the complaint will result in the revocation of the mining permit and forfeiture of the \$8,000.00 bond associated with that permit. On June 23, 2008, the Staff Director did revoke the permit. Since the timeframe to request a hearing expired, or pay the fees, it is now time to refer this matter over to the Attorney General's Office for collection of the \$8,000.00 bond. Because of the unresponsive nature of the operator, the staff recommends that the commission request that the Attorney General's Office proceed with collection of the bond associated with this permit.

Dr. Haddock made the motion that the Land Reclamation Commission ask the Attorney General's Office to proceed with the collection of bond for W&W Sand and Gravel. Col. Riffle seconded the motion which carried unanimously.

Andrew Diehl Issuance of Formal Complaint 2713

This is a request that a formal complaint be issued to Andrew Diehl. A formal complaint is the most serious enforcement action that the Program takes against a mining company and the last step before permit revocation and bond forfeiture. On March 10, 2008, the Staff Director issued an administrative penalty assessment associated with Notice of Violation to Mr. Diehl. The penalty assessment was for the amount of \$690.00 associated with a violation of failure to pay the required statutory fees to obtain a permit. The penalty assessment was sent by certified mail and after three delivery attempts by the post office, the mail was returned as unclaimed. On April 1, 2008, the program sent the Directors Order to Pay for delivery by the Sheriff's Office. The last contact with the Sheriff's Office in late August was that they attempted to deliver the mail to Mr. Andrew Diehl nine (9) times. Just yesterday the Sheriff's Office notified the program that they did successfully deliver the assessment to Mr. Diehl.

In Accordance with 10 CSR 40-070(4) (A) & (B) which reads concerning service of commission orders, a commission order shall be served on the person to whom it is directed or a designated agent by certified mail or hand delivered at the mine site. If the person to receive the certified materials refuses to accept delivery or to collect the mail, the requirements of this rule shall be deemed to have been completed. In Accordance with 10 CSR 40-10.070(3) (A) 2 concerning Formal Complaints, the director shall issue a formal complaint if the administrative penalties assessed by the commission have not been paid within ninety (90) days. This ninety day timeframe to pay the Director's Order administrative penalty assessment expired on August 26, 2008.

Because the permittee has neglected to take any action towards the Director's Order to pay the administrative penalty assessment, the staff recommends that the Land Reclamation Commission sign the Notice of Formal Complaint for failure to pay the required administrative penalty 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, pay the administrative penalty assessment which is the basis of this Formal Complaint, or take no action which will result in a recommendation at the January 2009 commission meeting to revoke permit #0956 and forfeit the bond to the Land Reclamation Commission. Dr. Haddock stated that this is the second time the program has had to use the sheriff's office to serve notice. He asked if this is new. Mr. Coen stated no. Most companies accept mail, but when they don't the legal advice is that the program must do everything possible to complete service. Dr. Haddock asked how many times the program attempts service before using the sheriff's office. Mr. Coen replied saying the Post Office will automatically try 3 (three) times to deliver and when that is not successful the program will use the Sheriff's Office, which is the final step in the delivery process. Dr. Haddock made the motion that the Commission signs the Director's Order for the formal complaint. Col. Riffle seconded the motion which carried unanimously.

Introduction of a New Land Reclamation Commissioner

Jim DiPardo asked Larry Coen to introduce a new commissioner. Larry Coen introduced Mr. Joe Gillman, the new State Geologist appointed to fill Mimi Garstang's position after she retired. Mr. DiPardo also introduced Tony Benz from Senator Barnitz Office; he was attending today's session at the Chairman's invitation.

Summary of Industrial Mineral 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 requests. This summary is being provided for the Commission's information:

Company	Permit #	Mine	Land Use	Acres Released	Amount Released
S&G Sand & Gravel, Inc.	0535	St. Louis County Site 0189	Water	18	\$13,000.00
Havin Material Service, Inc.	0240	ROHA #1 Site 0319	Water	11	\$5,500.00
Branco Quarries LLC	0903T	Site 1 #1948	Development	8	\$8,000.00
Capital Sand Company, Inc.	0248	Capital Sand 4/ Site #0332	Development	2	\$8,000.00
A.P Green Refractories, Inc.	0118	Site 0698 Pit 1A&1B	Wildlife/Water	11	\$5,500.00
A.P Green Refractories, Inc.	0118	Bueker Quarry Site Pit #6	Wildlife/Water	3	\$1,500.00
A.P Green Refractories, Inc.	0118	Chicago-Retort Quarry	Wildlife/Water	5	\$2,500.00
Capital Quarries, Inc.	0234	Highway 72 East/Phelps County	Development/ Water	12	\$6,000.00
Harbison-Walker	0146	Charles Bunten #1	Agriculture/Water	5	\$2,500.00

Refractories					
Harbison-Walker Refractories	0146	Woodruff #1	Wildlife/Water	4	\$2,000.00

Company	Permit #	Mine	Land Use	Acres Released	Amount Released
Harbison-Walker Refractories	0146	Juern Pit #1	Development	4	\$2,000.00
Harbison-Walker Refractories	0146	Zimmerman #1	Wildlife/Water	10	\$5,000.00
Harbison-Walker Refractories	0146	Zimmerman #5	Agriculture/Water	9	\$4,500.00
Lemons Landfill	0054	#1 LLP-BL	Waste/Disposal	20.3	\$10,150.00
Missouri Aggregate & Concrete	0706	Site #1	Agriculture/Water	8	\$8,000.00
Norris Asphalt and Paving Co.	0818	Blue Mound Quarry	Agriculture	31	\$15,500.00
Norris Asphalt and Paving Co.	0818	New Point Quarry	Agriculture/Development	36	\$18,00.00

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: Seminole Ag. Lime, Inc. Scott County

Ms. Joyce Luebbering passed out a copy of a copy of a letter from Mr. Alan Blow. His letter was received timely in the program, but was not included in today's packet. On July 11, 2008, the Missouri Department of Natural Resources, Land Reclamation Program received a permit expansion application from Seminole Ag. Lime, Inc. proposing to renew 70 acres at Site 2 in Scott County. After the application was deemed complete the company published the public notice once a week, beginning on July 21, 2008, for four consecutive weeks in the *Standard Democrat*, a newspaper that is qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in Scott 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 70-acre limestone mining operation is located in Section 31, Township 30 North, and Range 14 East in Scott County.

The Staff Director received letters during the comment period concerning the proposed permit expansion application. Many letters provided comments, a request for a public meeting and a request for a hearing. On August 19, 2008, Seminole Ag. Lime, Inc. respectfully declined a public meeting. The program did properly receive hearing requests into the file. Therefore the program presents a request for a hearing before the commission. On September 2, 2008, 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" 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 renewal application, for 70 acres in Scott County sought after by Seminole Ag. Lime, Inc. at Site 2. The Director's recommendation for approving this renewal application for 70 acres 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. There are several individuals who would like to address the Commission on this issue. Jim DiPardo reminded the audience that the Commission wants to hear everyone's concerns but he asked that each speaker hold his comments to about ten (10) minutes and not to repeat things that have already been said.

Mr. Bruce Loy, Airport Manager for Cape Girardeau presented some written concerns on behalf of the City Airport. They have the traditional concerns regarding blasting, tailings piles and dust. They seemed to be most concerned about impacts to or creation of any new wetlands. The FAA Advisory Circular 150/5200-33B discourages the incurrence of wetlands within 10,000 feet of the runway, because the presence of the wetlands will attract migratory birds which can be a hazard to aircraft approaching or leaving the airport. Mr. Loy talked to the FAA about this mine proposal and they encouraged him to intervene with his concerns and comments. He would really like to see some communication between the company, the City of Cape Girardeau, the FAA and MoDOT.

Colonel Riffle asked what is the population and species of wildlife of concern in the area now. Mr. Loy explained that there are Canadian Geese and Snow Geese. Ed Galbraith asked what altitude limit is there for this type of concern. Mr. Loy explained that this is up to 600 to 1000 feet. Ed then asked for a copy of the Circular, which Mr. Loy agreed to provide before the conclusion of today's meeting.

Mr. Mark Newell, resident of Scott City, stated that he had purchased property in 1983 and did not know about the quarry location. He has a deep well, about 725 feet, and is concerned that blasting would damage his well and home which is the about four hundred (400) yards from this quarry. He is also concerned about noise because he works different shifts and sometimes sleeps in the daytime. He is also concerned about property values, and the cost for home insurance that might go up because of the mining activities. Also he collects old trucks and is concerned about blasting damage to the glass windows. He and his neighbors collectively maintain a private ten foot wide drive, and are concerned that if the quarry trucks use that road, the road will be damaged. He is also concerned about the danger to other drivers and to children in the neighborhood. Finally, he is concerned about air quality inside his home since he likes to keep the windows open in good weather. His wife recently lost her employment because of the

economy, so they are concerned about the cost of legal fees if they have to fight this quarry proposal. He lives at 65 Lakeview Drive.

Ed Galbraith asked if there is planning and zoning in this area, and there is not. Colonel Riffle asked if the realtor had disclosed the mine site to the Newells, which was not done. Colonel Riffle then asked when they had learned about the proposed mine reopening. Mr. Newell explained about a year ago. Colonel Riffle asked what the main concerns were which was flyrock and potential damages to the deep well. Chairman DiPardo commented that a number of concerns are outside the Commissions authority. Also, Missouri now has a law on blasting which will cover some of these issues.

Raymond Martin expressed concerns about health effects for his wife. They only live about a quarter mile from the proposed quarry, and the quarry road will come within about one hundred feet of their home. His wife is currently in the hospital with pneumonia and he provided the Commissioners with a doctor's statement about his wife's fragile health. He explained that he cannot afford to move, as they invested the money they have in improvements to the home. His wife is on oxygen twenty four hours a day. They had selected this property because it is quiet and there is no dust. Now the quarry proposal will threaten his wife's health and life.

Jim DiPardo asked who maintains the road. Mr. Martin explained that he does near his home, as it is a gravel road, and he has the easement rights for this drive. Ed Galbraith asked for his address, which is County Road 304. Mr. Martin explained that this is the only road in and out of the quarry. Jim DiPardo asked if he had any other comments. He explained that his well is 365 feet deep and his wife is 71 years old. Ed Galbraith asked staff since this property was previously mined, is this considered a new permit or not? In a discussion that followed Mr. Hardy explained where previous mining had taken place and where his current proposal is shown on the map.

Mr. James Cassout owns property near the site. He is concerned about property values, foundation damage from blasting and his deep well. He stated that the quarry last operated in 1966, and he stated that the Commission must follow the statute, but the statute does allow denial based on issues of health, safety or livelihood. He also stated that if they have to fight the permit or later deal with the loss of wells, blasting damages, etc., then they will have to hire attorneys at a great expense. Finally, Mr. Cassout explained that not everyone received notice of this permit. Dr. Haddock asked who hadn't received notice. Mr. Cassout explained that there were two (2) property owners to the North.

Col. Riffle asked how he had learned about this permit and he explained that he had received a registered letter. Jim DiPardo asked if the city was notified regarding this proposal. Mr. Cassout explained that the city limit crosses a small corner of the property that is planned to be mined and the city was not notified properly but did find out about the proposal by the residents.

Mr. Steve Esner stated that he has lived there since 1971 and is about 1600 to 1800 feet away and is concerned about blasting damages to his home, noise, dust, truck traffic, road safety and safety impacts to the wetlands. Jim DiPardo stated that blasting is now regulated by a new state

law in the state fire marshal's office and that anyone concerned should get a copy of the law which explains the rights.

Ron Eskew represents the City Council of Scott City and he stated that the city has concerns about the quarry being so near the city. There is a ten inch water main along the black top road, and if that water main is damaged, the entire city will be without water. He stated that he believes that Representative Steve Hodges will introduce legislation next year to extend the zoning of the city beyond the city limits. Mr. Eskew asked the Commission if they have the authority to deny this permit, if not he would like to work with Representative Hodges to give the Commission that authority. Nick Matherly asked if there are other quarries in the area, which there are but they are at least five miles away.

Dr. Haddock asked if he represents the City, and Mr. Eskew is the City Manager. Mr. Eskew then added that the city's water treatment plant is about one and a half miles away with shallow wells. He is concerned that ground disturbance will create water quality issues for them. Dr. Haddock commented that County zoning could have taken care of some of these concerns. Dr. Haddock asked Mr. Coen if notification should have gone both to the County and City. Larry Coen explained that Notices are required to any local government who has jurisdiction over the mine plan area. Mr. Coen also explained that the Commission has decided in the past that when parties are at the meeting notification does not have to be redone since they are present to express their concerns. Dr. Haddock asked who can answer the question – how can you stop a permit. Mr. Coen explained by statute the Commission can only stop a permit if they are certain that someone's safety, health or livelihood will be impaired if the permit is issued and a hearing may be necessary to make that determination. Further discussion explained that the Commission could decide this even for one (1) person, but it is the Commission's discretion whether or not they want to order a hearing. Dr. Haddock stated that he has a couple of questions for the Operator during his presentation.

Ed Galbraith explained that regarding legal notice to the city, if proper notice prevented the Commission from getting all the facts, then it would be appropriate for the notice process to start over. However, if a new notice would not gain any new information then the Commission would not benefit from requiring it.

Ms. Glenda Blattel, assistant to Representative Steve Hodges read a letter from Rep. Hodges into the record. She provided all the Commissioners a copy of the letter. Jim DiPardo asked what type of legislation is being considered by Representative Hodges. Ms. Blattel explained that they would like to give the Commission the power to better protect citizens against quarry damages and to give the Commission the ability to require public meetings. She also said they are looking at improving the city zoning laws. Dr. Haddock commented that legislative proposals need to involve the industry associations who were acknowledged in the audience. Col. Riffle asked if anything had been filed yet. Ms. Blattel explained that filings cannot take place until December.

Mr. Carl Reddick explained that he agrees with all the other comments expressed and his house is within 60 yards of the proposed quarry. Jim DiPardo asked what type of house he had, which is a brick home with a full basement. Mr. Reddick provided Commissioners copies of pictures of

his property. Colonel Riffle asked who maintains the road. Mr. Reddick stated that the City and a Special Road District perform maintenance.

Mr. Melvin Esner stated that he is 1500 feet from the quarry site, and has lived in his home since 1971 which has a concrete block foundation, his well is 135 feet deep, and he is retired and likes to be outdoors. He stated that there was a recent MSHA report of 8-inch flyrock that killed someone and he wants to feel safe outdoors.

Mr. Allan Blow strongly opposes the quarry plans. He has a grossly under designed lake levee built by previous landowners. He is concerned that blasting could cause a disruption to the levee stability. The levee is over 30 years old, about 30 feet deep, only 120 feet wide at the base and it should be at least 200 feet wide at the base. Mr. Galbraith asked how far his house is from the levy. He explained he is about 300 yards from the levee, and his only access to his home is across the levee. The levee holds back a five acre lake.

Lunch Break

Colonel Riffle made a motion to break for lunch until 1:00 p.m. Dr. Haddock seconded the motion, which passed unanimously by voice vote. The Commission was in lunch recess from 11:55 a.m. until 1:00 p.m.

Hearing Request: Seminole Ag. Lime, Inc. Scott County – Resumed

Mr. Norman Harty represents Seminole Ag Lime, the operator of the proposed quarry. He explained that he has owned four (4) different rock quarries in the past forty-four 44 years and this particular site is over 100 years old. He stated that the site was active in the early 20th century then was idle until about 1955. The site then was active again until 1966. It was then again idle until now. The site was used for a rock source for the development of Interstate 55.

He stated that he has never been cited by the Clean Air Commission, or the Clean Water Commission. He stated that he was one of the first members of the national Society of Explosive Engineers. His company has licenses and or exemptions for blasting in 36 states. He helped put together the legislation that Missouri now has for regulating blasting. He also explained that in all his years at this site he has never been a poor neighbor, and no one has even known of his presence.

Dr. Haddock asked what process he used to locate all the adjacent landowners for notification. Mr. Harty explained that he went to the courthouse to get all the landowners of record. The one property that was missed was not listed because it was in a conservation program that was tax exempt. Because it was not on the tax roles, the name and address was omitted by someone at the courthouse. He also stated that he has no intention of harming wetlands.

Dr. Haddock then asked about the corner of property that is inside the city limits? Mr. Harty stated he does not believe this area is in the city limits, but just adjacent to it. As for access, there is a new highway that the quarry will use, so they will not plan to use the small private drive for access to the quarry.

Dr. Haddock asked about the airport advisory? Mr. Harty explained that the final land use calls for one acre of water, and that there is one acre of water now, so the end result should not be different than current conditions.

Someone asked Mr. Harty what will happen when private wells fail? Mr. Harty asked why the wells would fail. Someone asked how many active quarries does Seminole operate now? Mr. Harty explained none currently.

Someone asked why propose this quarry now? Mr. Harty explained that he had gone through a time of poor health when he could not work. Now he is able and needs to get his business active again. He has been in business for forty-four (44) years and he has quarries in Ste. Genevieve and Lake Wappapello that are inactive.

Someone asked what about landslides that are caused by quarry activities? Someone asked how long the planned quarry will be active? Mr. Harty explained that this depends on the demand for stone and the economy. Someone asked that since the land was for sale at one time, is it still on the market? Mr. Harty said that the land was for sale when his health was so poor, but it is no longer on the market. Someone asked if he planned to lease to someone else and Mr. Harty explained that he has no plans to lease the land.

Dr. Haddock commented that many of the concerns presented today could have been answered in a Public Meeting. Mr. Harty explained that right after his first public notice about fifty (50) people met informally without inviting him and he felt that agreeing to another meeting would not be productive. He preferred to just answer questions before the Commission today.

Someone stated that at a recent meeting there was an assurance that there would be no blasting, but now blasting is called for in the plan. Mr. Harty stated that he has never stated that there would be no blasting.

Ed Galbraith asked if Seminole would pave the road near the quarry to protect the health of the public from the effects of dust. Mr. Harty stated he would pave it. Ed then asked if he would accept that as a condition of his permit, which he agreed. Someone stated that the current residential road is not paved for large trucks. Mr. Harty stated that they would obey all road weight limits.

Colonel Riffle asked if he was a registered engineer. Mr. Harty explained that he is not registered, but is a member of the Society of Explosives Engineers. Colonel Riffle asked if a city attorney was at the public meeting that the public was referring to. There was not.

Mr. Loy from the airport stated that he still needs an answer about the water impacts that might attract wildlife to the area. Ed Galbraith stated that after looking at the Advisory Circular it does not appear that the FAA controls the decisions of the Land Reclamation Commission. He understands that Mr. Loy had an obligation to pursue his involvement in this meeting and register his concerns. Mr. Galbraith advised that Mr. Loy has completed his duty obligations to

bring this issue to the Commission, and now the Land Reclamation Commission needs to complete their obligations to act on this issue.

Jim DiPardo asked if the quarry has liability insurance, and it does. Mr. Harty stated that a preblast survey must be done before mining as required by the Missouri Blasting Safety Act, and that each shot must be monitored by a seismograph. Seminole has a \$1,000,000 liability policy that applies as long as they properly follow the provisions of the Blasting Safety Act, and it is backed up with a \$5,000,000 umbrella policy. Someone asked who pays for the preblast survey and Seminole would pay for the preblast surveys. Seminole will hire a third (3rd) party professional company to do the surveys. Mr. Blow asked about the poorly designed lake levee? Mr. Harty stated that it is the landowner's responsibility to make sure that this private levee is safe.

Someone asked Mr. Harty what about protection of private wells? He stated that he does not know the law that applies to wells, but that he plans to follow every law that applies to the quarry. Someone asked what about surveying all the wells? Mr. Harty stated that he would follow any law that applied to this issue, but that he did not know at the meeting what the requirements were. He stated that it would not be in his best interests to agree to something that was not required by law, because then he is taking on a responsibility that is not legally his.

Jim DiPardo asked if Seminole would honor the Missouri Blasting Safety Act, pave some of the roadway, conduct preblast surveys of the homes and do well certifications related to blasting? Ed Galbraith asked Harry Bozoian of the Commission can legally impose conditions on this permit. Harry Bozoian advised that is perfectly acceptable as the Commission has developed a record today in which the operator has agreed to those conditions. Mr. Harty stated that he would do those things, and that specifically he would pave Rock Levee Road for 100 feet past Mr. Martin's home.

Ed Galbraith made a motion to deny the request for a hearing, but impost the conditions discussed above and issue the conditioned permit. Dr. Haddock seconded the motion which passed unanimously by roll call vote.

Hearing Request: MMD Stone, Cape Girardeau County

On April 21, 2008, the Missouri Department of Natural Resources, Land Reclamation Program received a permit expansion application from MMD Stone, L.L.C. proposing to add 13 acres for a total of one hundred and twenty four acres (124) to the Neely's Landing Quarry Site in Cape Girardeau County. After the application was deemed complete the company published the public notice once a week, beginning on June 16, 2008, for four consecutive weeks in the *Southeast Missourian*, a newspaper that is qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in Cape Girardeau County. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials. Notice was also sent to landowners considered adjacent and contiguous to the mine plan area. This proposed permit expansion application of a 111-acre limestone mining operation is located in Northeast Cape Girardeau County East of Jackson along the Mississippi River. The proposed mine operation timeframe is to the year 2038.

The Staff Director received letters during the comment period concerning the proposed permit expansion application. Many letters provided comments, a request for a public meeting and a request for a hearing. MMD Stone, L.L.C., held a public meeting on July 31, 2008. However, since not all of issues were resolved the next step in the process was to proceed to a request for a hearing before the Land Reclamation Commission.

All of the letters that requested a public meeting within public notification timeframe requirements also requested a hearing. The program did properly receive hearing requests into the file. Therefore the staff presents a request for a hearing before the Commission today. On August 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 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 the notice of recommendation. After consideration of issues provided in letters, it is the Director's recommendation to issue the permit expansion application, for an additional 13 acres in Cape Girardeau County sought after by MMD Stone, L.L.C. at the Neely's Landing Quarry Site. The Director's recommendation for approving this expansion application 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.

Ms. Luebbering noted to the Commission that Mr. Hardison of MMD Stone was in attendance earlier in today's meeting, but is no longer in the room. She also noted that no one requesting a hearing is present today and asked the Commissioners if they had any questions. Mr. Coen asked Bill Zeaman about his recent conversation with Mr. Miller, one of those who requested a hearing. Mr. Zeaman explained that he had talked with Mr. Miller within the last day and confirmed that many of the residence concerns had in fact been resolved. There were a lot of concerns expressed at the Public Meeting but the Company addressed many of those concerns already and as a result no one has come forward today to address this issue. Dr. Haddock made a motion to deny this hearing request. Col. Riffle seconded the motion. The motion carried unanimously by roll call vote.

Hearing Request: Isabella Ready Mix, Inc., Ozark County

On June 9, 2008, the Missouri Department of Natural Resources, Land Reclamation Program received a permit expansion application from Isabella Ready Mix, Inc., proposing to open a new open pit sand and gravel mine site on 8-acres in Ozark County. On May 22nd this year an inspection was made of Isabella's existing site on Lick Creek based on complaints from the Regional Office Water Program that Isabella was operating a flood plain gravel pit without a permit. The inspection revealed that the complaint was valid and the operator agreed to complete an application for this site that day. On June 9th the application was deemed complete and the company published the public notice once a week, beginning on June 18, 2008 for four

consecutive weeks in the *Ozark County Times*, a newspaper that is qualified to publish Public Notice's in Ozark County. The last Public Notice was run on July 9th.

The Staff Director received a letter during the comment period concerning the proposed permit expansion application. The letter provided comments and requests for a public meeting and a hearing. During a telephone conversation the staff learned that Isabella respectfully declined a Public Meeting. During the Public comment Period the staff received another complaint that Isabella had resumed operations at this site. After an inspection on August 6th, the staff confirmed that this was not the case. The program has a hearing request record on file that was signed by Fred and Peggy Lewis. Therefore the staff presents a request for a hearing before the commission at today's meeting. On August 25th, the Staff Director did send a letter informing the person that requested 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 the notice of recommendation. After consideration of issues provided in the received letter, it is the Director's recommendation to issue the permit expansion application, for a new site involving eight (8) acres in Ozark County for Isabella Ready Mix, 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. 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.

Mr. Thiltgen stated that Mr. Wallace of Isabella Redi Mix and Fred and Peggy Lewis who requested the hearing are present at today's meeting. Mr. DiPardo asked Mr. Thiltgen what action was taken regarding mining without a permit. Mr. Thiltgen explained that the operator spent that day working on the permit application which was submitted as soon as bonding was secured. Mr. DiPardo asked if enforcement was taken and it was not. Mr. DiPardo asked if that was normal. Mr. Coen explained that the purpose of enforcement is to gain compliance and when an operator complies immediately then the program does not see the need for enforcement. If an operator does not comply immediately then enforcement would be taken.

Ms. Peggy Lewis stated that she has serious concerns about the mining proposal. She is a manager for a large pharmaceutical company in Kansas City and understands the purpose of laws and rules. She passed notebooks out to the commissioners with documentation about her concerns. Ms. Lewis explained that the first tab in the book includes pictures of concerns in Lick Creek, the 2nd tab includes pictures and information about their home and the last section includes information about their concerns for this proposed mining operation. In 2006, the Lewis' put the property up for sale and learned that Isabella was trespassing on their property. The Lewis' put their life savings into the property and are concerned about that property value.

There are many trucks per day that leave the mine site. The Lewis' were never notified by Mr. Wallace about the permit, either now or the original permit. She feels her property has been

devalued so much that she cannot sell. In her book, Section 3, she explained that there are ten to twelve acres of land ownership in dispute. The mining activity could have long term affects to the property.

She feels that ridges created by mining must be knocked down since that is a requirement within twelve months of mining. She stated the permit can be denied on the likelihood of future non-compliance. She explained that the pictures in the first section of her book show mining activity below the water level and rules say that the operator must be ten (10) feet away from the water; she stated that Mr. Wallace has been operating since 2003 but she did not learn about it until 2006. She does not believe that the operator properly notified the adjacent land owners required by the rules. She stated that all she sees when she looks out her front door is the mining activity and she hears trucks traveling back and forth all day long. She is also concerned about safety on the narrow curvy country roads. In 2007, she learned of this mining activity when trying to list her property for sale and she now believes that the mining activity has greatly affected her property value. She read a letter from a prospective buyer who declined the purchase because of the mining activity and all the concerns she has expressed today.

Mr. DiPardo asked when the pictures were taken. Ms. Lewis stated they were taken on August 30th. Mr. DiPardo then asked Mr. Thiltgen about the issues she stated regarding grading and so forth. Mr. Thiltgen explained that these are reclamation issues that must be done after mining is complete. Mr. Matherly observed that there aren't any reclamation requirements for an in stream site. Chris agreed and also explained that mining must be ten (10) feet away from the water at the time of excavation. When these pictures were taken the water level may have raised up because of rainfall events. Mr. Thiltgen stated that the water level is very dynamic. Nick Matherly also stated that gravel removal sometimes leaves the appearance of pushing gravel up, but that is just the way it looks when you take gravel away from the bank. There was further discussion about how rainfall events affect water level in the creek and how that can raise water into areas already mined.

Dr. Haddock stated that regarding the 8 acres of expansion, there are no adjacent landowners. He observed that these eight (8) acres are inside a one hundred forty (140) acres track of land so there may not be any landowners adjacent to these eight (8) acres, and so no requirement to notify any landowners by mail. Ms. Lewis disagreed and explained that Mr. Wallace was crossing her property when taking the gravel out. There was further discussion of the fact that the Lewis' property is adjacent to Mr. Wallace's property but the Lewis' property is not adjacent to the mine plan area because Mr. Wallace owns all the property around mine plan area.

Colonel Riffle asked if they have "no trespassing" signs? Ms. Lewis explained that the fence posts have purple paint on them. Col Riffle asked why the Lewis' didn't take legal action to protect their property. Ms. Lewis explained that once they confirmed their property lines both her husband and her son talked to Mr. Wallace about crossing their property and he agreed to move his access to his own property which he did. Dustin Lewis addressed the Commission and stated that he became involved with this when he knew how upset his parents were. He expressed his feelings at the time to Mr. Wallace who agreed to stop the trespass immediately.

Dustin Lewis is still very concerned about his parent's safety because of the large truck running on the narrow country roads.

Ed Galbraith asked if there is planning and zoning in the area, and there is not. He then explained that people often like the fact that there is no zoning because that gives people a lot of freedom, but of course that also means that they cannot dictate what their neighbors do either. Mr. Galbraith stated that they have not really heard a lot about health, safety or livelihood, but more about zoning issues. He said that respectfully it is time to hear from the operator.

Mr. Wallace representing Isabella made a brief statement. Ed Galbraith asked what about the water level in the photos? He asked Mr. Wallace if he mined below the water level. Mr. Wallace said that they do not mine below the water level, but there have been numerous rains that create a lot of fluctuation in the water levels in the photos. There was discussion about the fact that flood plain gravel mining can go below the water level but not in stream gravel mining.

Dr. Haddock asked about crossing the Lewis' property? Mr. Wallace stated the road was used publicly for years and he did not know he was on their property. When they complained he agreed to change his access to the site. Dr. Haddock stated that the property dispute is not a Land Reclamation Commission issue.

Ed Galbraith asked if the creek ever goes dry. Chris Thiltgen explained that he has seen it very nearly dry. Joe Gillman asked if there has ever been non-compliance. Mr. Thiltgen explained that he has never observed any but he has expressed concerns to the operator when the situation was getting close to noncompliance. Mr. DiPardo asked about the compliance history of the company. Bill Zeaman explained that there were two NOV's issued in the past but none since 1996. Jim DiPardo asked how many trucks come and go from the site. Mr. Wallace explained that they probably mine about 10,000 yards annually. This is probably at least four (4) truck loads a day.

Dr. Haddock stated that since the trespassing issue has been resolved, he made a motion that the Land Reclamation Commission deny the hearing request and issue the permit. Colonel Riffle seconded the motion, which passed by roll call vote. There were three (3) votes yes, two (2) votes no and one (1) abstention. Mr. Coen stated that the Commission needs to check the rules to see if three (3) votes were enough to deny the hearing request and issue the permit. Note that later in the day Harry Bozoian confirmed that three (3) votes were sufficient.

Introduction of New Employee: Amanda Weimer

Bill Zeaman introduced Amanda Weimer to the Commissioners. Bill explained that she started with the Program on June 1st, 2008 but this is the first meeting she could attend. The Commissioners welcomed her to the Program.

National Refractories Responsibility Release Requests

This action is to release three (3) pits from any further responsibility. This action is necessary due to the bankruptcy of National Refractories and their failure to properly close permitted sites. The Program did collect \$85,200.00 from the Reclamation Bonds from this Company, but since

this amount was inadequate to perform all reclamation. The Program has had to prioritize the work to be done. National left a legacy of 32 sites under permit for which their reclamation bond was forfeited. The Commission has previously released 19 sites. The Baumgarth BS pit required extensive grading work moving more than 6,000 cubic yards of material in order to adequately shape the impoundment. This work was funded with money collected from National Refractories' surety company.

The Land Reclamation Program has evaluated and approved the following responsibility releases for the BS, M and X pits. The Program is asking the Commission to formally release any further responsibility on these sites. The current landowner was notified 30 days in advance of the Commission meeting of these releases by face to face discussion. The landowner is completely satisfied. Although the program could not do all the work that could have been done due to funding constraints, the staff worked with the land owner to make sure that the work completed was the most important to him. The M and X pits were reclaimed by National, but never released.

The following three National Refractories mine sites under Permit Number 0389 are presented for release. These are the Baumgarth BS 8.59 acre water pit, the Baumgarth M 0.23 acre pasture and hay pit, and the Baumgarth X 0.28 acre pasture and hay pit, for a total release of 9.1 acres. These pits are located in Gasconade County near Owensville. Ed Galbraith asked since this is a responsibility release then there is no actual release on bond. Mike Larsen explained in a forfeiture situation the funds have already been collected by the state and the staff needs the Commission to order that no further responsibility remains at this site.

Dr. Haddock made a motion to release the Program from any further responsibility regarding the three (3) National Refractory Sites listed above. Col. Riffle seconded the motion which carried unanimously.

Missouri Mining, Inc. Responsibility Release Requests

Missouri Mining forfeited a lot of ground several years ago and the Program has been working through these sites as the staff is able. Today the program is presenting two (2) sites for release: Mine #4 and #6 for a total of 158 acres. These sites are located in Putnam County. 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. These sites have undergone permit revocation and bond forfeiture by the commission in the past. The former Missouri Mining, Inc., sites include Mine #4C, permits 78-25-A3 (inc. #5) and 77-25-160 for 58 acres and Mine #6, permits 78-25-A1; 78-25-A3 (inc. #3) and 79-25 for 100 acres.

These mine sites have been reviewed jointly with the Office of Surface Mining and, in addition, all 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. As of the date of this memo, no comments or objections from the landowners have been received.

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 two (2) former coal mining sites listed above.

Col. Riffle made a motion to release the Program from any further responsibility regarding the two (2) Missouri Mining Sites listed above. Mr. Matherly seconded the motion which carried unanimously.

Coal Bond Forfeiture Status Update

Since the last update provided to the commission on July 24, 2008, the following work has been completed by the program's bond forfeiture staff:

Universal Coal and Energy Co., Inc. – Mines #1 and #4 – Howard County

A contract has been awarded for final earthwork at a permanent program permit located in Mine #1. This work will involve the clean-up of some remaining coal processing waste from the old preparation plant area located adjacent to the work site and also the final repairs on a sediment pond. This will complete the work remaining on a nine acre area of this former mine and ready the entire permit for a presentation to the commission for a release request in the near future.

In the Mine #4 area, landowner contacts have been made with respect to the final touch up work remaining on their properties of this former mine site. The work largely involves the repair and stabilization of gullies as well as some final pond repairs. This work is expected to be completed prior to the end of the year; however, wet weather has continued to hamper this effort well into this past summer. Ground conditions must be dry in order for this work to be properly and effectively completed with minimal collateral damage to the adjoining lands.

Summary of Coal Bond Releases Approved by the Staff Director

Staff Director Larry Coen evaluated and approved the following liability releases for Associated Electric Cooperatives, Inc., from their self bonding. This is an informational summary that is being presented to the Commission. There is no request for Commission action. At one time AECI was the State's largest coal producer operating at three (3) different mines. The Prairie Hill Mine was their largest. For the last several years, AECI has just been in reclamation at these mines.

These releases are all at the Prairie Hill Mine for the following permits: Permit No. 1985-10, PP-08-02, 98.5 acres of Phase III for a total release of \$49,250.00; Prairie Hill Mine - Permit No. 1982-09, PP-08-03, 66.0 acres of Phase III for a total release of \$33,000.00; Prairie Hill Mine - Permit No. 1981-02, PP-08-04, 153.4 acres of Phases I, II, and III for a total release of \$312,400.00. This represents a release from liability of 317.9 permitted acres within Permit Nos. 1985-10, 1982-09 and 1981-02.

Hearing Request: Isabella Ready Mix, Inc., Ozark County – Follow-up Review

Mr. DiPardo asked Harry Bozoian if he had determined an answer to the question of the vote regarding Isabella Redi Mix. Harry Bozoian explained that a quorum is needed to conduct a

meeting, but only a simple majority is needed to pass a vote. In the case of Isabella Redi Mix – the vote was three (3) to two (2) in favor of denying the hearing request and issuing the Permit so the motion passed.

PERMITS, CONTRACTS AND DESIGN

Coal Permitting Activities Update

This report covers coal permitting activities between July 11, 2008, the date of the last update, and the date this memo was prepared, September 10, 2008.

During this reporting period, Land Reclamation Program (LRP) received two (2) new coal permit actions that require review and approval. These two (2) permit actions were finalized during this reporting period. LRP staff reviews are proceeding on schedule.

Abandoned Mined Lands Status Update

Abandoned Mine Land (AML) Reclamation Projects

Aurora Shafts

The Aurora Shafts Reclamation Project was completed on August 26, 2008. This project closed five dangerous vertical mine shafts, three of which were located in the Aurora city park. Four of the mine openings were dewatered, excavated, and sealed with a four-foot concrete plug. The fifth opening was excavated and determined to not be a shaft, so the AML staff directed the contractor to backfill the excavated area with shot rock. During construction, an apparent small air shaft was discovered. The air shaft consisted of a one-foot diameter open, steel pipe that extended 10 to 15 feet into the ground. While there, the staff directed the contractor to fill the vertical pipe with concrete to make the opening safe.

Two change orders in the sum amount of \$6,537.80 were added to the Aurora Shafts construction contract. The change orders covered the additional work of water pumping, remobilization, concrete testing, closing of the air shaft and a time extension, all at the request of the AML staff.

England Air Shaft

On June 16, 2008, the LRP was contacted by Senator Claire McCaskill's office regarding a collapsed hole that suddenly developed in the driveway of a Granby, Missouri residence in Newton County. An investigation revealed an abandoned lead/zinc air shaft. The area in and around Granby was underground mined in the 1800's to early 1900's. An article titled *The Lead and Zinc Mines of Granby*, dated October 19, 1873, stated that there were approximately fifty shafts in the area.

The opening revealed a four-foot by six-foot concrete foundation that supported the machinery used in the mining operation. A minimum six-foot deep void developed beneath the pavement and dropped off to an unknown depth near the back of the shaft. An employee of the contractor

recalled backfilling the approximate ninety feet deep shaft with loose clean fill material which may have settled over the years, thus leaving a void.

Reclamation of the England Air Shaft encompassed cutting the asphalt pavement and exposing the original hoisting foundation. The contractor then constructed a steel reinforced concrete cap that overlapped the existing concrete foundation to minimize any future subsidence.

This project was solicited as an under \$3,000 project, and the AML staff selected Mike Bentz, a local contractor that was recommended by the property owner. The total final cost including labor and materials was \$1,600.00.

Billy Creek/ Blacksmith

The construction contract for the Billy Creek / Blacksmith AML Reclamation Project was awarded to C.L. Richardson of Ashland, Missouri, in the amount of \$245,088.30. As of the date of this memorandum, this project was approximately 40% complete and is progressing as scheduled. This project will reclaim two eroding gob piles in Adair County, located approximately 10 miles west of Kirksville. Reclamation encompasses grading and revegetating the surface effects of two underground coal mines in efforts to address the dangerous gob piles and embankments, treat and cover exposed coal waste, mitigate acid mine drainage, and stabilize the site to prevent erosion.

The contractor began work on the Blacksmith site and has graded the site to final contour. The subgrade has been treated and incorporated with significant quantities of agricultural lime (200 lbs./acre), and the site has been covered with one foot of glacial borrow material. The riprap drainage swales have been installed and the site will be fertilized, seeded, and mulched as soon as dry site conditions allow.

As for the Billy Creek site, the contractor has mobilized earthmoving equipment and cleared and grubbed approximately 60% of the site. The project is currently on schedule and is expected to be completed by the contract completion date of November 6, 2008, barring any weather delays or necessary changes.

West Ken Coal

Preliminary investigation of the West Ken Coal Reclamation Project (Jasper County) has resulted in significant issues related to the Superfund law. The AML staff will continue to coordinate with the MDNR Hazardous Waste Program; the USEPA Region 7, Superfund Division; and The Doe Run Company to resolve the outstanding liability concerns and move this project into a preliminary design phase in the future.

Harrisburg/ Thornhill

GREDELL Engineering Resources, Inc. is progressing with design services on the Harrisburg/ Thornhill Reclamation Project (Boone and Howard Counties). Task one which includes landowner meetings and familiarization of the problem area is complete. Additionally, task two which includes aerial photography, topographic mapping and ground survey has been completed and approved by the AML staff. Gredell Engineering is currently in the final stage of

completing the preliminary design plan, task three. They have characterized the site and have submitted both the Spoil Investigation Report and the Wetland Identification and Delineation Report. Meetings to discuss the proposed preliminary design and gain concurrence with the landowners were being set up at the time of this memorandum.

West Montrose Reclamation Project

The AML staff has completed the site investigation and characterization of this project. The design drawings are 95% complete and the AML staff is currently working on the construction specifications and contract documents. The AML staff has submitted a wetland determination to the U.S. Army Corps of Engineers and is currently awaiting comments regarding impacts to jurisdictional waters.

Highland Highwall Reclamation Project

The AML staff continues to conduct on-site investigation and preliminary design activities on the Highland Highwall Reclamation Project located near Calhoun in Henry County. The AML staff has completed a wetland assessment of the site and is working to submit a wetland determination to the U.S. Army Corps of Engineers.

Edwards Shaft

On July 15, 2008, AML staff investigated a portal opening to an abandoned underground mine near Corder, Missouri, in Lafayette County. The landowner of the property called and informed staff that there was a mine opening located on his property and requested assistance in sealing access. The entry was partially collapsed and water from a nearby pond was draining into the shaft and discharging from a second collapsed entry approximately 300 feet away. This feature will be reclaimed by backfilling the portal with nearby soil material and seeding the disturbed area to cool-season pasture. The landowner has reconstructed the pond to prevent water from discharging into the portal opening. The collapsed entry near the water discharge will be excavated to install a four-six inch pipe to control water that discharges from the underground mine.

OTHER BUSINESS

Hearing Requests

Mr. Galbraith made a request of the Program regarding the memos for hearing requests. He would like the paragraphs from the Law and Rules regarding Standing and the Commission decision process to be included in the memos because he feels it is important that the Commission refer to this when considering hearing requests that are presented.

Mr. Galbraith also explained that he appreciated the Chairman's facilitation of dialogue between the Company and the Public in today's hearing requests, but he felt that much of this communication should have taken place before today's meeting. He expressed that the next time a hearing request is presented in which the Company has refused a public meeting his first inclination will be to table the hearing request until the Company and the Public can talk about their differences.

Mr. Coen explained that the law prescribes that the operator has the right to refuse a public meeting, but if the Company agrees to the Public Meeting then the staff must produce minutes of the meeting and give all attendees thirty (30) days to comment on the notes and then an opportunity to again request a hearing. All of this takes time so that if the operator had agreed to a Public Meeting in today's case, the hearing request would not have been presented until November. Operators sometimes don't agree to a public meeting for fear of losing two (2) months of time and then still have their permit presented to the Commission for a hearing request. Ed Galbraith stated next time they can just wait the extra two (2) months.

Mr. Bozoian cautioned that the Commission cannot force a Public Meeting or a Hearing but the Commission is always free to table an issue so that the people can talk on their own. Dr. Haddock observed that if the Commission were always to table a hearing request for lack of a Public Meeting then this would be a clear policy change for the Commission and would be essentially punishing the Public who have taken their time to travel to Jefferson City to attend a Commission Meeting. If the Commission doesn't allow them to present their concerns after they've taken the time to appear, then it is really unfair to the Public. Mr. Coen stated to the Commissioners if they want to pursue this policy change then the Commission needs to direct the staff to inform operators before the meeting that they can expect their issue to be tabled if they have not yet tried to meet with the Public.

Ed Galbraith made a motion that the staff informs operators that they need to make a good faith effort to talk with the public prior to a hearing request presentation to the Commission. Dr. Haddock seconded the motion in order to have discussion. Dr. Haddock then questioned if this issue should be tabled to allow legal counsel to review the law and rules to help the Commission address this issue. Harry Bozoian then stated that he would be glad to look at this, but the law specifically gives the operator and the public rights regarding public meetings and hearings and the Commission cannot change the law. The Commission can direct the parties to attempt some sort of negotiation so Mr. Bozoian's recommendation is that the Commission should not refer to meetings or hearings but rather to negotiations.

Ed Galbraith commented that he did not want to tie the operator's hands and Dr. Haddock commented that the Commission does not want to create a situation where the Public could hold out forever to prevent the Permit from being issued. Mr. Coen explained that if the Commission would pursue this policy the staff should not be involved in the negotiations because if so, then the staff has an obligation to prepare notes of the meeting and give everyone thirty (30) days to review the notes and object to anything they don't like. This essentially forces the operator to attend a Public Meeting that the Statutes allow the operator to decline. Mr. Coen further explained if the Commission is just encouraging the operator and Public to talk on their own then that is okay. No policy change should appear to circumvent the law regarding Public Meetings.

Joe Gillman stated that if the parties could talk before coming to the Commission they might be able to resolve a number of things on their own. Dr. Haddock explained that it is just frustrating to the Commission when no one has talked to each other before appearing at a Commission Meeting. The Commissioners would be appreciative if they could see that the Operator at least tried to talk to the Public. Dr. Haddock asked if the Commission should just table this to allow

legal counsel to review the Commissions options. Mr. Galbraith moved to table the motion. Dr. Haddock seconded the motion. The vote passed unanimously.

Magruder Legal Review

Mr. Bozoian stated that he just learned that the Judge in the Magruder case upheld the stay in the mining permit and further ordered that there can be no blasting under any circumstances, however, the Company can continue to develop their site under their Land Disturbance permit.

Comments From The Public

No comments from the public.

CLOSED SESSION

Mr. Gillman made a motion that the Land Reclamation Commission meet in closed session on November 20, 2008 prior to the open meeting for the purpose of discussing personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo, 2003. Mr. Galbraith seconded the motion which carried unanimously.

ADJOURNMENT OF MEETING

Motion was made and seconded to adjourn the meeting. The meeting adjourned at approximately 4:00 p.m.

Respectfully submitted,

Chairman