

**MISSOURI DEPARTMENT OF NATURAL RESOURCES LAND  
RECLAMATION COMMISSION**

In the Matter of:	)	
	)	
HEARTLAND MATERIALS LLC.	)	Proceeding Under
Permit # 1072	)	The Land Reclamation Act,
Proposed Limestone Quarry	)	Sections 444.760 – 444.789, RSMo.
Cape Girardeau County, Missouri,	)	
	)	
SAXONY LUTHERAN HIGH SCHOOL,	)	
<i>Petitioner,</i>	)	
	)	
SAVE OUR CHILDREN’S HEALTH, INC.	)	Permit #1072
<i>Petitioner,</i>	)	
	)	
v.	)	
	)	
DEPT. OF NATURAL RESOURCES,	)	
KEVIN MOHAMMADI	)	
	)	
Staff Director,	)	
Land Reclamation Program,	)	
Division of Environmental Quality,	)	
<i>Respondent,</i>	)	
	)	
	)	
HEARTLAND MATERIALS, LLC,	)	
<i>Applicant,</i>	)	

**ORDER UPON ASSIGNMENT OF MATTER TO HEARING OFFICER**

A formal public hearing will be held in this matter pursuant to *Saxony Lutheran High School Inc., and Save Our Children’s Health, Inc. v. Missouri Land Reclamation Commission and Heartland Materials, LLC*, Mo. App. WD74994, consolidated with WD75017, opinion filed January 15, 2013. Deborah Neff has been assigned as the Hearing Officer for this matter. Contact information for the Hearing Officer is provided at the end of this Order.

**Email Addresses of Attorneys of Record**

If the email address utilized in this Order for any Attorney of Record is not that which the Attorney wishes to be used in this matter, such Attorney is to send to the Hearing Officer an email message setting forth the email address that is to be utilized.

**Director's  
Recommendation**

On January 5, 2011, Respondent recommended that the Commission issue permit #1072 for a 161 acre limestone quarry.

**Petitioner's Asserted Grounds for Denial of Granting the Permit -  
Pleadings**

On or before June 14, 2013, Petitioners shall file with the Hearing Officer, copy to Counsels for Respondent and Applicant, their pleading setting forth the asserted grounds supporting their claim that the Commission should reject the Director's Recommendation and deny the issuance of the permit expansion application. Petitioner shall set forth in a concise, but specific summary fashion:

1. Any asserted impact of the permitted activity on that Petitioner's health and livelihood that is to be established by competent and substantial scientific evidence; and
2. Any asserted act of noncompliance by Applicant during the five-year period immediately preceding the date of the permit application (October 4, 2010) demonstrating a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance that is to be established by competent and substantial scientific evidence; and
3. Any asserted defect or deficiency in the application that is in violation of Section 444.772 RSMo or 10 CSR 40-10.020.

**Response of Respondent and Applicant to Petitioners' Pleadings**

On or before July 14, 2013, Respondent and Applicant shall file with the Hearing Officer, copy to Counsel for Petitioner their separate Response to Petitioners' Pleadings.

**Discovery**

Any party wishing to conduct discovery may do so in accordance with Missouri Rules of Court. Discovery is to be completed by August 30, 2013.

**Submission of Witness Lists**

On or before August 15, 2013, each party shall filed with the Hearing Officer copy to opposing parties their witness list for their case in chief, which shall set forth for each witness expected to be called to testify the following: (1) Name of witness, (2) whether the witness will be testifying as an expert or non-expert, (3) if testifying as an expert, the field of expertise; (4) a concise statement of the expected testimony or opinion to be given by

the witness.

**Submission of Pleadings to Hearings Officer**

Parties may submit their pleadings to the Hearing Officer as email attachments in WORD or pfd format. It is not necessary to mail hard copies to the Hearing Officer of those pleadings submitted as email attachments. Parties may submit their pleadings via USPS or private carrier service.

**Hearing Date**

The hearing is set for September 16 through 24, 2013 at Hearing Room 1 in the State Capitol Building, Jefferson City, Missouri.

**IT IS SO ORDERED this 23rd day of May, 2013.**



**Deborah Neff, Hearing Officer  
218 N. Rollins, Suite 101 P.O. Box 388  
Macon, Missouri 63552  
attorneyneff@centurylink.net  
660-385-1460  
660-385-1606 FAX**

**Certification of Service**

I hereby certify that I, the Hearing Officer in this matter, have sent a copy of this Order to the Attorneys of Record for each party by email attachment on this 23rd day of May, 2013:

Lowell Pearson, Attorney for Applicant: Lowell.Pearson@huschblackwell.com

Steve Jeffery, Attorney for Petitioner: sjeffery@jefferylawgroup.com

Timothy P. Duggan, Assistant Attorney General, Attorney for Respondent:  
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Lauren Cole, Legal Secretary: Lauren.Cole@dnr.mo.gov  
Kevin Mohammadi, Director, Land Reclamation Program:  
Kevin.Mohammadi@dnr.mo.gov

  
Deborah Neff