



**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
ELM STREET CONFERENCE CENTER
BENNETT SPRING & ROARING RIVER CONFERENCE ROOM
1730 E. ELM STREET
JEFFERSON CITY, MISSOURI
JANUARY 27, 2011**

Chairman, Jim DiPardo called the meeting to order on January 27, 2011 at 10:02 a.m., at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring and Roaring River Conference Room, located at 1730 East Elm Street, in Jefferson City, Missouri. Chairman DiPardo stated he had to leave because of a family crisis and Vice Chairman Haddock would chair the meeting.

Commissioners Present: Dr. Gregory Haddock, Vice Chairman; Joe Gillman, John Madras, Nick Matherly, Aaron Jeffries and Col. John Riffle. Not present Jim DiPardo, Chairman.

Staff Present: Mike Larsen, Ron Dumey, Bill Zeaman, Larry Slechta, Teri Bibbs, Guy Frazier, Mitch Roberts, Richard Harris, Zach Davenport, Amanda Lowe, Mike Mueller, Joyce Luebbering, Larry Teson, and Tina Stockman.

Others Present: Jenny Frazier, Assistant Attorney General, Jean Riffle, Citizen; Chris Thiltgen, Department of Natural Resources, Division of Geology and Land Survey; Mikel Carlson, Gredell Engineering; Van Beydler, Steve Feeler, Aaron Schmidt, Lorisa Smith, Department of Natural Resources, Division of Environmental Quality; Lauren Brenner, Renee Bungart, Scott Totten, Robin Rotman, Department of Natural Resource, Director's Office; Kyra Moore, Department of Natural Resources, Division of Air Pollution Control Program; Curtis Gateley, Carrie Schulte, Department of Natural Resources, Water Protection Program; Steve Rudloff, Missouri Limestone Producers Association; Geneva Brandes, Saxony Lutheran High School; Robert Wilkinson, Attorney with Haush Blackwell; Brian McGovern, Attorney with McCarthy, Leonard & Kaemmerer, L.C.; Steve Jeffery and Brian Stone, Attorneys with Thompson Coburn and **please see sign in sheets at the end of these minutes for additional attendees of the meeting.**

Vice Chairman Haddock stated the meeting has been called to order. He read the Standing Process from 10 CSR 40-10.080 (2) – Establishing Standing for a Formal Public Hearing

- (A) For a formal public hearing to be granted by the Land Reclamation commission, the petitioner must first establish standing.
- (B) The petitioner is said to have standing to be granted a formal public hearing if the petitioner provides good faith evidence of how their health, safety or livelihood will be unduly impaired by the issuance of the permit. The impact to the petitioner's health, safety or livelihood must be within the authority of any environmental law or regulation administered by the Missouri Department of Natural Resources.

Whenever a petitioner requests a formal hearing, the Land Reclamation Commission will decide whether the petitioner has established standing, which is necessary to be granted a hearing. Based upon the results of the hearing, the Commission will decide whether or not the permit should be issued.

Vice Chairman Haddock stated that the two Hearing Requests that are on the Agenda today are requests for a hearing and it will be very important to be able to hear quite a bit of information and testimony from the Petitioners, and responses from the Permit Applicants in order to determine whether there is standing to grant a hearing for any Petitioner. He also went over taking periodic breaks throughout the meeting. Please silence or shut off cell phones in order to not disrupt the meeting. He also went over some of the ground rules for the speaker cards and the Order to follow for the Meeting.

- If you have petitioned the Commission for a hearing and are prepared to testify today, please fill out a Speaker Card in the back of the room with your name and identify which Permit Application you wish to speak on.
- Because the minutes of this meeting are being recorded, all speakers are asked to identify yourself for the record and speak directly into the microphone at the podium **each** and **every time** that you speak. Please do not speak from the audience.
- For each of the hearing requests, we are going to allow the attorneys representing the petitioners to speak first. After that, if any individual petitioner would like to speak, they will be allowed 3 minutes to speak – there will be a timer shown on the screen.
- Please be advised that the Commission has read all comment letters on the two mining permits that are the issue of the requests for hearing that will be considered today. If you have petitioned the Commission for a hearing, you do not have to speak, but may have the question of your standing for a hearing considered by the Commission based upon your written statement. We're planning on taking a lunch break from 12:00 to 1:30 p.m.
- At the end of testimony, Commission may go into Closed Session to consider the testimony today.

Approval of November 18, 2010 Meeting Minutes

Agenda Item #2

Commissioner Col. Riffle made a motion to approve the November 18, 2010 Meeting Minutes as written. Commissioner Jeffries seconded the motion. A roll call vote was taken. The motion passed unanimously.

Commissioner Riffle: yes
Commissioner Matherly: yes
Commissioner Madras: yes
Commissioner Gillman: yes
Commissioner Jefferies: yes

Vice Chairman Haddock: yes

INDUSTRIAL MINERALS

Vice Chairman Haddock explained the process of the two Hearing Requests. We will hear both Petitions first, and will be dealt with separately, but will hear all of the information first, before making a determination.

Heartland Materials, LLC Hearing Request

Agenda Item #3

Chris Thiltgen, Environmental Specialist IV, gave an introduction of this Agenda Item to the Commissioners and to those who were present. He stated we are at the step in the process for the Commission to make a final decision on whether or not the people have standing to grant a Public Hearing.

Stephen Jeffery, along with Brian Stone, Attorneys with Thompson Coburn, representing the Petitioners, presented their evidence against this permit application of Heartland Materials, LLC. They presented a video of several speakers, the first few speakers on the video are associated with the Public Water District No. 1, they are represented by Mike Payne, the remainder of the video consisted of comments from affected citizens who live near the locations of the 2 proposed quarries. There were a number of speakers who provided live testimony to the Commission, including individuals associated with Saxony Lutheran High School, Save Our Children's Health, Inc. and State Representative Donna Lichtenegger stopped by the meeting and spoke to the Commission and those present stating that she represents the 157th District. She wanted her constituents to know that she was there to support her constituents and she does think that they need a fair hearing. Mr. Jeffery stated that the universes of their comments are applicable with respect to both of these quarry applications.

Robert Wilkinson, Attorney with Haush Blackwell, representing Heartland Materials, presented information and Speakers who provided live testimony in favor of denying the hearing request and issuing the mining permit. Some of the Speakers had information that they shared to hopefully help answer questions that some of the Petitioners may have had with mining of a quarry. He stated that he felt Heartland had fully addressed all of the issues of health, safety and livelihood. He respectfully requested that the Commission deny the Petitioners for a formal hearing and proceed to issue the request of the Land Reclamation mining permit.

Stephen Jeffery, Attorney, Representing the Petitioners and Robert Wilkinson, Attorney, Representing Heartland Materials spoke again with some final comments.

Strack Excavating, LLC Hearing Request

Agenda Item #4

Chris Thiltgen, Environmental Specialist IV, gave an introduction of this Agenda Item to the Commissioners and to those who were present. He stated we are at the step in the process for the Commission to make a final decision on whether or not the people have standing to grant a Public Hearing.

Stephen Jeffery, along with Brian Stone, Attorneys with Thompson Coburn, representing the Petitioners, presented their evidence against this permit application of Strack Excavating, LLC.

He requested that all of the information, testimony, exhibits, videos, and commentary that they have provided with respect to the prior Heartland Materials application be considered by the Land Reclamation Commission with respect to the pending application by Strack Excavating.

Brian McGovern, Attorney with McCarthy, Leonard & Kaemmerer, L.C. in St. Louis, representing Strack Excavating, presented information and Speakers who provided live testimony in favor of denying the hearing request and issuing the mining permit. Some of the Speakers had information that they shared to hopefully help address the concerns that some of the Petitioners had with mining of a quarry. Attorney McGovern said that he believes that Strack has answered the questions that they have had.

Stephen Jeffery, Attorney, Representing the Petitioners had some final comments.

Cindy Gage, Saxony Lutheran High School Board Member, and Abby Petzoldt, as a personal Citizen also gave final comments.

Brian McGovern, Attorney, Representing Strack Excavating spoke again with some final comments.

Vice Chairman Haddock explained to those present that there is a lot of information to consider on these issues. In fairness to those present, he stated that a decision may not be reached right away.

Commissioner Jefferies made a motion that the Land Reclamation Commission go into Closed Session today, January 27, 2011, after this 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. Commissioner Madras seconded the motion. A roll call vote was taken:

Commissioner Gillman: yes

Commissioner Jefferies: yes

Commissioner Matherly: yes

Commissioner Madras: yes

Vice Chairman Haddock: yes

The motion passed unanimously. The meeting ended at 4:35 p.m.

The Closed Session will begin at 4:45 p.m. today, January 27, 2011.

Respectfully submitted,

Chairman