



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

NOVEMBER 19, 2009

Chairman, Jim DiPardo called the meeting to order at 10:13 a.m., at the Department of Natural Resources, Bennett Springs and Roaring River Conference Room, located at 1730 E. Elm Street, in Jefferson City, Missouri.

Commissioners Present: James DiPardo, Chairman; Dr. Gregory Haddock, Vice Chairman; Joe Gillman, Scott Totten, Acting Staff Director, Clean Water Commission; Tim Ripperger, Col. John Riffle and Nick Matherly.

Staff Present: Mike Larsen, Bill Zeaman, Chris Thiltgen, Joyce Luebbering, Amanda Weimer, Larry Slechta, Mike Mueller, Charles McGhee, Ron Dumey, Mitch Roberts, Steve Femmer and Tina Stockman.

Others Present: Jenny Frazier, Assistant Attorney General; Kara Valentine, Assistant Attorney General; WB Tichenor, Hearing Officer, Speer Law Firm; Adam Troutwine, Hendren Andrae, LLC; Steve Rudloff, Missouri Limestone Producers Association and Jean Riffle.

Approval of September 24, 2009 Meeting Minutes

Col. Riffle made a motion to approve the September 24, 2009 Meeting Minutes as written. Dr. Haddock seconded the motion. The motion was carried unanimously.

Chairman DiPardo announced that Commissioner Bob Ziehmer is the new Director of the Department of Conservation. Bob Ziehmer asked Tim Ripperger to represent him from the Department of Conservation. Chairman DiPardo stated that this Commission is very pleased and honored to have had Commissioner Ziehmer as part of the Commission and he will be missed. Chairman DiPardo said that Bob had mentioned that he may pop in from time to time. He asked Commissioner Ripperger to please convey this message back to Mr. Ziehmer that would be great. Commissioner Ripperger said he would be happy to share this message with Mr. Ziehmer.

INDUSTRIAL MINERALS

Summary of Industrial Mineral Bond Release Requests Approved by the Staff Director

Larry Slechta reported that 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
Alsey Refractories Company	0224	Montgomery County, Tracy Site #6, Site#0298	Agriculture/Water	8	\$4,000.00
Alsey Refractories Company	0224	Montgomery County, Pilliard Site #5, Site# 0297	Agriculture/Water	17	\$12,500.00
Capital Quarries, Inc.	0234	Cole County, Stadium West Quarry, Site #0308	Development	37	\$18,500.00
E.T. Stokes	0493	Howell County, Site #4, Site #0539	Agriculture	3	\$8,000.00
Harbison-Walker Refractories	0146	Montgomery County, Weant Site, Site #0193	Unaffected	13	\$6,500.00
Missouri Sand Company LLC	1044	Jackson County, Riverbend Site, Site #2307	Unaffected	15	\$5,000.00

Staff presented the above request for bond release to the Staff Director. The Staff Director approved the releases noted above following review of the requests along with photographs taken during the bond release inspections.

Confirmation of the approval has been sent to the company and bonding entities.

Industrial Minerals Bond Forfeiture Release Request- Ashworth Limestone, LLC Agenda Item #4

Larry Slechta stated that these are the bond forfeitures that the Commission will need to take action on. At the last meeting the Commission had decided to look at all of the sites first and then took a vote on them. Mr. Slechta asked the Commission if they would like to keep the procedure the same. The Commission agreed to proceed in the same way.

Larry Slechta reported that the Land Reclamation Program staff has received and evaluated the following Industrial Minerals bond forfeiture release request. This permit for this site was

revoked on May 30, 2002, along with \$18,500.00 bond, after the operator failed to renew the permit or complete reclamation. The site was inspected on August 12, 2009 to determine the status of reclamation responsibility. The site has been naturally reclaimed to the post mine land use of wildlife and water impoundments, as identified in the mine plan prepared by Ashworth Limestone, L.L.C. The landowner was contacted and is pleased and satisfied with the condition of the site.

<u>Company</u>	<u>Mine</u>	<u>Permit #</u>	<u>Land Use</u>	<u>Release Acre</u>
Ashworth Limestone, L.L.C.	Pit #1	0366	Wildlife/Water	29

RECOMMENDATION:

The above request has been evaluated in the field for compliance with both State law and permit conditions. It is the recommendation of the staff that the Land Reclamation Commission approve this application as presented to release the State of Missouri, Department of Natural Resources, of responsibility.

Larry Slechta asked Commissioners if they had any questions on this site. The Commissioners had no questions.

Industrial Minerals Bond Forfeiture Release Request – R& J Quarry, Inc. Agenda Item #5

Joyce Luebbering reported that the Land Reclamation Program staff has received and evaluated the following Industrial Minerals bond forfeiture release request. On March 25, 2004, the Land Reclamation Commission voted to approve the consent agreement which resulted in forfeiture of the bond. The site was inspected on September 9, 2009, to determine the status of reclamation responsibility. The site has been naturally reclaimed to the post mine land use of wildlife. The site is vegetated and stable. No sediment is leaving the site and no erosion concerns were observed. This site is located in Morgan County, south of Versailles.

<u>Company</u>	<u>Permit #</u>	<u>Land Use</u>	<u>Release Acres</u>
R & J Quarry, Inc.	0544	Wildlife	8

RECOMMENDATION:

The above request has been evaluated in the field for compliance with both State law and permit conditions. It is the recommendation of the staff that the Land Reclamation Commission approve this application as presented to release the State of Missouri, Department of Natural Resources, of reclamation responsibility. Joyce Luebbering asked if the Commissioners had any questions. The Commissioners had no questions.

Dr. Haddock made a motion that the Commission follows the staff recommendations to release the State from any further reclamation responsibility for the Ashworth Limestone and the R & J Quarry and in addition to use the bond amount on the R & J Quarry for other reclamation responsibilities. Col. John Riffle seconded the motion. The motion was carried unanimously.

Buildex – Hearing Officer Order on Permit Application

Kara Valentine, Assistant Attorney General from the Attorney General’s Office, stated that she represented the Department of Natural Resources in this appeal. In the packets that were sent out there was a Recommended Order and a Final Order for the Commissions consideration. Ms. Valentine gave the Commission a reminder of what Buildex was about. Buildex has an existing Industrial Minerals permit in Platte County, near a town called Dearborn. It is a shale quarry and Buildex uses the shale to make a product called haydite. The permit that is a subject to the appeal was an expansion of the existing permit across Highway 371 to approximately 185 additional acres. Those of you that were on the Commission a year ago may remember that there was a public hearing in November, 2008 at that time there was about a half a dozen residents, who were opposed to the expansion of the quarry came in front of the Commission and made their case, this is one of those health, safety or livelihood appeals, where the Petitioners argued that they were opposed to the expansion permit because it would unduly impair their health, safety or livelihood.

From reading the Minutes of the November, 2008 meeting the primary concern, Ms. Valentine thought, for both the Commission and the Petitioners, the neighbors; was the possible exposure to crystalline silica dust, which is a known human carcinogen. This Commission heard their claims and granted an appeal, the case was assigned to Mr. Tichenor, who as you know also handled the Magruder health, safety or livelihood appeal, but this case is a little bit different from Magruder, we recognized early on that we should be able to include some special permit conditions in the permit that would address the concerns about exposure to silica dust. That is what we were able to do.

Ms. Valentine stated that there was no hearing; there is no transcript for the Commission to review. What we did early on was meet with Buildex to see if there was some way we could agree on some special permit conditions that would give some buffer of assurance to the residents that they would not be exposed to silica dust. Ms. Valentine stated that the first thing they thought of was to simply monitor ambient air at the property boundary at Buildex to see if there was silica dust that was escaping past the property boundary. She also stated that they consulted with an Air Toxicologist and an Air Modeling Expert with the Department and found out that it is difficult to monitor ambient air from a single source, especially at this Buildex site where there happens to be a gravel road that runs nearby and that the gravel road is a source of silica dust. Instead of trying to model for silica emissions we decided we would presume there was a silica issue and that there were silica emissions and instead we focused on controls that Buildex could put in place to reduce or minimize those emissions and that is when they came up with those 6 permit conditions which are listed in the Recommended Order. Buildex has agreed to those conditions, the Petitioners, the residents who made this appeal, they are not opposing those conditions. Ms. Valentine stated that she thought the conditions represented a good compromise between Buildex’s interests in expanding their business compared to the competing interest of the Petitioners that they not be exposed to harmful doses of silica dust. Buildex had shown Ms. Valentine some maps of their operations, they do plan to use spray bars and other types of watering which she thought would add to the efforts to minimize or decrease any exposure from silica dust at the quarry. She stated her request for the Commission today is to review the Recommended Order, the Final Order and approve it, which means that this

Expansion Permit would be issued to Buildex, but it will have the 6 additional permit conditions which again are designed to reduce silica exposure. Ms. Valentine wanted to let the Commission know that Mike Larsen and Bill Zeaman were incredibly helpful in getting to this point in resolving this appeal. They were helpful in making suggestions and coming up with those permit conditions for her. She also stated that she wanted the Commission to know that they are very well served by the Land Reclamation Commission Staff in resolving this appeal.

Ms. Valentine announced that Hearing Officer Tichenor was present, if the Commission or anyone else had any questions about his Recommended Order. Mr. Tichenor would like to address some issues that came up with this permit appeal that the Commission may want to address in the future. Attorney General, Kara Valentine also announced that Adam Troutwine, an Attorney for Buildex was also there and had a few comments on this Recommended Order as well. She also stated she didn't believe there were any of the residents or petitioners who were present, but again they sent a letter stating that they don't oppose the issuance of this permit with the 6 special conditions. Mrs. Valentine thanked the Commission. Chairman DiPardo thanked Mike Larsen and Bill Zeaman for all of their help with this appeal.

W.B. Tichenor introduced himself to the Commission, Staff and to those who were present. He stated that he had the privilege of serving as the Hearing Officer in this proceeding. He also appreciated very much what Mrs. Valentine, Mr. Troutwine, and Mr. Brownlee did, regarding bringing this matter to resolution. He thought that this is a good example of how the government regulatory body and the Citizen Corporation can work together to achieve the results that is beneficial and still protects public interest. Mr. Tichenor had comments relative to the procedure that he had regarding this hearing which never took place. He stated that early on, it appeared to him that the Petitioners had no case relative to scientific evidence on issues of health, safety and livelihood. Their witness list which he ordered them to present at an early stage had nothing but lay witnesses who were concerned about the operation of the existing facility. While he understood and appreciated their concern, it simply did not on its face present a case that would establish prima facie relief for the petitioners. The relief the Petitioners were seeking was denial of the issuance of the permit. He stated he had some issues in the way that the Petitioners handled the matter, it came to a point where Council for the Applicant filed a Motion to Dismiss with suggestions in support there of.

Mr. Tichenor recommended review of it, and he stated that the Commission may want Staff Council to review it and report back to them at a later date. He stated that it sets out in a very fine fashion the problems of the lack of action on the part of the Petitioners, lack of response to orders which he issued and essentially, simply in his opinion, abusing the process before this Commission. Mr. Tichenor also stated he thought it illustrated that while Citizens who have concerns need to have those concerns heard and addressed in proper form. In an ordinate amount of time, financial resources can be expended often in a situation in which it should have been brought to a resolution much earlier than what this was. Mr. Tichenor stated that looking back on this, exercising 20/20 hindsight, if he had to do this over again, he would have had a hearing early on, after the Petitioners submitted their witness list to have them provide essentially an offer of proof, what it is, what they intend to prove, to make their case. Mr. Tichenor thought at the conclusion of that, he would have then prepared an Order and said that the Permit should be granted, it would probably have been in advance of the negotiation of the

six conditions, which that might not have been ultimately the best result. The bottom line, the petitioners, in his opinion simply used this methodology of wanting a formal public hearing, to simply delay this matter. Mr. Tichenor stated that this is not appropriate, it is not in the best interest of the Commission to have this matter delayed and it is not in the best interest of the Companies who appear before this Commission and seek permits for what is lawfully the activity that can be carried on with the Statutes and Regulations to this date. He wanted to bring this to the Commission's attention. Mr. Tichenor also stated that if the Commission had any questions to the proposed Order as Ms. Valentine had indicated that it is very straight forward and it appeared the conditions certainly, since the parties have agreed to it, and as far as the Respondent, the Applicant and the Petitioners had no objections to those conditions. It certainly satisfied all the parties in the end. Mr. Tichenor asked if there were any questions, he stated he would be happy to respond.

Dr. Haddock asked Mr. Tichenor about his impression of the intent of the Petitioners, if that was his opinion? Mr. Tichenor replied that it was his opinion, based on what he had been through, by having a non-responsive attorney for the Petitioners. Dr. Haddock asked Mr. Tichenor if they had 1 attorney or if they had several attorneys. Mr. Tichenor replied that they had a single attorney. Dr. Haddock had asked Mr. Tichenor if it was about a half dozen petitioners who were mostly the land owners in the area, who had hired one attorney. Mr. Tichenor replied yes.

Chairman DiPardo stated that if you would go back and look at the record, it was himself or someone else who told the Petitioners that since they were going to be granted a hearing, that it would cost them some money, and to find legal counsel and it seemed when you tell people this, sometimes they back up and decide to forget it, because they can't do it. He also stated that he thought that these people were noted and that they would have to pursue this and would be out of some serious money. Chairman DiPardo asked Mr. Tichenor if in his own opinion, he thought the Petitioners skidded around the issues and waited for due process. Mr. Tichenor stated that he is not sure of what council they had received from their attorney, but it appeared to him that the attorney, upon reviewing the appropriate statutes and regulations, must have come to a conclusion that they really didn't have a case to present. At that point, Mr. Tichenor thought that the appropriate thing would have been for the attorney, on behalf of the Petitioners, to come forward and to dismiss this because they had no scientific evidence that they were going to present. Mr. Tichenor didn't know if this was going to take place or not or whether the Petitioners just said they didn't care and just continued it and once the Motion to Dismiss was filed shortly thereafter. Mr. Tichenor issued an Order for Response and then the response came through that they had filed their dismissal. He stated that if they had not done this he would have dismissed it because of the actions of not being responsive to various orders and that they had presented nothing relative to the Orders to establish that they could make their case.

Chairman DiPardo asked Mr. Tichenor that if when he had asked for information from them, did they drag their feet, and did he have to get a hold of them several times before they did anything. Mr. Tichenor explained that in some instances they ignored or were totally unresponsive and that is not what he is use to from attorneys. Mr. Tichenor stated he didn't know if the issue was on the side of the attorneys or whether attorneys often have clients that simply do not want to cooperate. Mr. Tichenor stated that the process and the procedure was not what it should have been to move this along to really address the issues. Mr. Tichenor also stated that he would like

to refer the Commission to the suggestions and support of the Motion to Dismiss; which Mr. Brownlee and Mr. Troutwine filed because it summarized in very fine fashion some of the issues that he dealt with over the course of the proceeding.

Chairman DiPardo asked Mr. Tichenor if he had contacted anyone at the Department of Natural Resources, like Mike, and let him know that you were not getting anywhere with this case? Mr. Tichenor responded no, because he felt like it was his call, it was a matter of when the Commission retained the Hearing Officer, that he was there and presided over it and so his contact is with the Attorneys, for the various parties. He expects when he issues an Order, for example, they are to give him exclusionary dates for when we can have a hearing. He immediately would get a response back from Mr. Brownlee and Mr. Troutwine. He stated he received nothing from the Petitioners and even with follow up, he received nothing. Mr. Tichenor stated that it is that sort of line of activity and that is just one illustration that leads him to believe that they were simply using the process to delay this matter.

Chairman DiPardo stated that as a Commission, we need to further push the point, if a hearing is granted and a Hearing Officer is put in charge of this, that legal fees and technical questions are going to have to be answered and if these people aren't willing to address that then everybody is spinning their wheels. Mr. Tichenor stated that we learn from one process to the other, it is a constant stage of learning and if there are matters in the future that he is appointed as Hearing Officer of this nature. He will probably handle this procedure in a tighter fashion and will probably begin the process with a conference of the parties, so he can help the parties understand what is expected of them and what they are going to do. Mr. DiPardo again stated that maybe it is the responsibility of this Commission to drive this home to these people.

Mr. Larsen stated that he wanted to point out that anytime a hearing request comes in on any permit application the Program responds to that hearing request to the Petitioners, this is before the hearing is granted. Mr. Larsen also stated that the Land Reclamation Program advised them that the road that they are going down, if the hearing is granted, will result in a Court Room type situation. This is not just an open public hearing, where you have refreshments and everyone airs their grievances. We point out the fact that it will be presided over by a Hearing Officer and it is a courtroom setting where all parties are represented by legal counsel. Mr. Larsen wanted the Commission to know that the Program does do that whenever the Program receives a hearing request. They are advised up front that the road they are traveling down could cost them money. The Commissioners stated that this is good to know. Mr. Larsen stated that this letter goes out to the Petitioners before they ever approach the Commission with a hearing request. Chairman DiPardo thanked Mike for explaining.

Mr. Adam Troutwine stated that Hearing Officer Tichenor and Kara Valentine hit most of the points that he was going to hit. He stated that they were lucky to work with Kara Valentine, Mike Larsen's staff and Bill Zeaman to get this done. Buildex was very happy to be in the position that they have a solution worked out between the parties that they hope that the Commission would approve and saw as a good solution to this issue. Buildex was very pleased with that. On the point that the Hearing Officer had brought up if there was anything that the Applicant could do or Industry members that come before the Commission and request an expansion permit, while the Commission is determining to grant a public hearing. He stated he

was sure that Buildex in this case would have been happy to provide the Commission with a history of their NOV's or complaints they had received that would have assisted the Commission in deciding whether to grant a hearing request. Mr. Troutwine stated that he does not speak for Bill Zeaman or the rest of the staff but he is sure that the staff could provide things that may help the Commission to determine if this is worth going to a full public hearing. In the future, if there is anything an applicant can do, we respectfully request that the Commission let us know and we will be happy to work with the Commission to dispose of unwarranted hearing requests.

Chairman DiPardo asked if the Petitioners had even said thank you to the Commission on what was done, because this was a pretty emotional issue. Mr. Tichenor stated that the Motion to Dismiss was filed; he filed an Order to give them the opportunity to respond to the Motion to Dismiss. He also stated that he received a dismissal without prejudice which I don't know what that was in the context of this proceeding. He then wanted confirmation that they were in agreement with or did not oppose the conditions. Mr. Tichenor stated that he had made a phone call and after 3 days, he finally received a response, a letter, which said, that they were not opposed to it. Mr. Tichenor stated that was it, a one page letter and as far as any appreciation that they conveyed to applicant or counsel for the Department, to the Respondent, he was unaware of it, but there was nothing.

Chairman DiPardo asked if there were any thank you's to the company for going out of their way to provide these six (6) issues. He stated that this was an emotional issue, it really moved one of the Commissioners about the dust that was leaving and about the woman who got up saying her daughter couldn't breathe. It was a very emotional day for the Commission and that is why we did what we did. He said from now on they would look at it with a different pair of eyes. Chairman DiPardo thanked the staff, attorneys and hearing officer for all the work they did in order to get this completed. Chairman DiPardo was upset at the way the Petitioners never thanked anyone.

Dr. Haddock stated that the hearing request was approved in November 2008 that was only 2 meetings after they had just concluded a very lengthy hearing process. Chairman DiPardo stated that he didn't think that the Commission took that lightly, none of them wanted to go right into it. They had photographs of dust spilling out all over and Michael Puffinberger stated that was when their water scrubber was down, which meant that they went ahead and continued to operate any how without regard to all the dust emissions. Dr. Haddock also stated that the Commission couldn't get a response from the Air Board at the time. He has no regrets of the Commission having moved forward on conducting this because there were a lot of unanswered questions at that time, everyone goes through a process of learning things and sometimes operators do as well. The Commission's mantra is always stating to work with the people that you are neighbors with, because they may be the first ones to cause you any kind of problems. Good neighbors are the best way to be, he also stated his conscience is clear in terms of us going through this whole process because there was some questions that they had at that time.

Mr. Tichenor, Hearing Officer, asked Dr. Haddock and members of the Commission, to not interpret his comments in any way, to be a criticism of the Commission granting the formal public hearing to the Petitioners, that was not his intent at all. He simply wanted to alert the Commission that the procedure that they went through and the problems that developed, in

learning what he has here. He stated he would have handled it different and he will handle matters differently in the future, if he has the privilege of serving the Commission. Mr. Tichenor also stated to the Commission, please do not take his comments as a criticism, of granting the formal public hearing. He reviewed the entire record and if he would have been sitting in any one of the Commissioners chairs, he would have thought that they met that initial threshold to grant them a formal public hearing.

Dr. Haddock made a motion that the Commission accepted the Final Order which mentioned that the Petitioners had voluntarily dismissed their action as well as accepted the Hearing Officers Recommended Order which included the 6 conditions that was approved and agreed upon on November 8th 2009. Dr. Haddock stated that there were two things; one was the Recommended Order and then the Final Order that was in front of them. Dr. Haddock asked if it was okay if they could handle those both at the same time. It was confirmed that it was okay to handle those at the same time. Col. Riffle seconded the motion. Chairman DiPardo called for a roll call vote:

Commissioner Ripperger: yes
Commissioner Riffle: yes
Commissioner Matherly: yes
Commissioner Totten: yes
Commissioner Gillman: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed unanimously with 7 yes votes to 0. The Final Order was signed by the Commissioners.

PERMITS, CONTRACTS AND DESIGN

Coal Permitting Activities Update

Mike Mueller, Permits Contracts and Design Unit Chief, reported that the report covered coal permitting activities between September 9, 2009, the date of the last update, and the date this memo was prepared, November 3, 2009.

During this reporting period, LRP received four (4) new coal permit actions that require review and approval. Three (3) of these permit actions were finalized during this reporting period. As the reporting period ended, one (1) permit action was still under review by the LRP staff. LRP staff reviews are proceeding on schedule and working on completion as planned.

Abandoned Mined Lands Status Update

Abandoned Mine Land (AML) Reclamation Projects

Mike Mueller reported that this was an update of the construction projects that are being completed at this time and upcoming projects.

WEST MONTROSE RECLAMATION PROJECT

Construction at the West Montrose Reclamation Project (Henry County) continues as the weather permits. Although much of the dangerous piles located on the west side of the site have been leveled, a significant amount of spoil material still needs to be hauled from the west and used to fill the dangerous highwall located on the east side of the project area. Our AML contractor, Hale Fencing and Bobcat Service, LLC, of Henley, Missouri, has been stockpiling lime in anticipation of liming and treating the acidic spoils. As this reporting period ended, 90% of the site had been completely cleared and grubbed and the grading and earthwork was more than 60% complete. Continued wet site conditions have accounted for approximately 40 bad weather days and have significantly delayed construction activities. Any future bad weather days will be added on to the extension to the contract day by day. Mr. Mueller stated he hoped that the weather would improve in order to get the project completed on time. This project will reclaim approximately 70 acres of barren and eroding mine spoils located in the Germantown area, approximately two miles west of Montrose, Missouri.

DE SOTO SHAFTS PROJECT

The DeSoto Shafts Reclamation Project was completed by Jericho Demolition and Land Rehabilitation, LLC, of Henley, Missouri, on October 28, 2009. This project sealed access to fifteen (15) vertical lead mine openings and one horizontal portal opening on private property located four miles southwest of De Soto, Missouri. Additionally, one additional vertical shaft located near Mapaville was completed under this project. A change order in the amount of \$6,500.00 was approved to complete the Mapaville Shaft. This shaft was added to the project because we had received authorization to proceed prior to contract completion, and to make efficient use of the materials purchased by the contractor. A second change order in the amount of \$1,500.00 was approved to complete additional excavation beyond the scope of the contract. The additional excavation was necessary to confirm that one of the shafts had been sufficiently backfilled and a concrete plug was not required. The final cost of construction for this project and the Mapaville shaft was \$113,000.00.

HARRISBURG/ THORNHILL

Gredell Engineering Resources, Inc., of Jefferson City, Missouri, has completed the draft design for the Harrisburg Reclamation Project. A contract, in an amount not to exceed \$167,470.00, was awarded to this consultant for completing design and construction oversight of this project. The scope of the contract includes completing design and engineering services, preparation of construction plans and specifications, and construction administration and inspection of the project. This project will consider the design and reclamation of approximately 115 acres associated with six areas of abandoned mine lands located near Harrisburg, Missouri. The scope of work for this project includes excavating and burying coal waste, grading and recontouring the site to eliminate spoil piles and embankments, eliminating acid pit impoundments, mitigating acid mine seeps, and revegetating the site to reduce erosion. The estimated cost of construction is \$1.2 to \$1.5 million. The AML staff is currently reviewing the draft design for comments.

HIGHLAND HIGHWALL RECLAMATION PROJECT

The AML staff has completed the initial site investigations of the Highland Highwall Reclamation Project, located near Calhoun, Missouri, in Henry County. A proposed design plan

is being developed in efforts to obtain concurrence from the landowner regarding the scope of work. The project will address approximately 70 acres of pre-law coal mine land where reclamation was left incomplete by the mining company. Reclamation will eliminate an extremely dangerous highwall that is located immediately adjacent to a county gravel road. Additionally, dangerous piles and embankments will be graded and revegetated to control erosion. The estimated cost of construction is roughly \$750,000 to \$1 million dollars.

BEE HOLLOW RECLAMATION PROJECT

The design of the Bee Hollow Abandoned Mine Land Reclamation Project, located within the Bee Hollow Conservation Area in Macon County, is nearly complete. The design drawings are 99% complete and the AML staff is currently working on the construction specifications and contract documents. The project will reclaim approximately eight acres of AML lands. The project will eliminate an approximate 1.5-acre sandstone embankment and cover the surrounding coal waste with spoil. After final grading, approximately six acres of reclaimed area will be revegetated with a mixture of warm-season grasses and forbs or cool-season grasses and legumes that are beneficial to wildlife. The estimated cost of construction is roughly \$300,000.00 to \$500,000.00.

LITTLE TIPPLE RECLAMATION PROJECT

The AML staff has solicited Triad Environmental Services for a proposal to complete a design for the Little Tipple Reclamation Project. This project will eliminate the health and safety hazards associated with two long walls and an end wall that are situated immediately adjacent to a county gravel road in southwestern Bates County. Other key features that will be addressed may include hazardous water bodies, dangerous piles and embankments, and potential acid-mine drainage. The estimated cost of construction is roughly \$500,000.00 to \$700,000.00.

ABC SHAFT RECLAMATION PROJECT

The ABC Shaft Closure Project will close an extremely dangerous lead mine shaft located in Jasper County. The shaft is located in the loading area of ABC Supply Co., Inc., a roofing material supplier in Joplin. The business owner's consultant contacted the AML staff on June 9, 2009, and reported an abandoned lead mine shaft on the company's lot that they would like LRP to close. On June 16, the AML staff field investigated the site and determined that the earth had subsided; creating a five-foot deep hole that was two-foot in diameter at the asphalt surface and belled out to six-foot diameter at the bottom. The AML staff concluded that the feature may be mine related; however, it did not meet the criteria to be classified as a Priority I non-coal problem that warranted AML funding. In early July, 2009, ABC Supply Co., Inc. consulted Freddy Van's, Inc. to conduct exploratory drilling to fully characterize the problem feature. A report from Freddy Van's, Inc. stated that they drilled three borings and concluded that the feature is a collapsing shaft that is void of fill for a depth of 12 feet below the surface to the bottom at approximately 50 feet. The ABC Shaft was then added to the inventory and the project was scored, ranked and selected for reclamation work under the authority of the current Governor's letter, dated September 25, 2009, requesting that LRP close Priority I (extremely dangerous) abandoned non-coal mine openings. Preliminary design work is underway and the shaft is expected to be closed by winter 2009.

MAINTENANCE

The AML staff has developed a maintenance contract to repair a slump that is affecting a guardrail installed along a final pit highwall at the Honey Creek Reclamation Project. This Project was completed in 1994; however, various maintenance projects have been completed in this area to protect the work that had been completed. The cost estimate of the work is \$23,500.00.

Resolution for Richard O'Dell

Mike Larsen announced that Richard wasn't able to make the meeting today. Richard worked for the Land Reclamation Program for 10 plus years and we have a resolution prepared for him but he called yesterday afternoon and said he would be unable to make it to the meeting. Mr. Larsen also stated that he went to work for our federal partners, the Office of Surface Mining, this summer and we wish him the best of luck.

OTHER BUSINESS

Approval of the 2010 Meeting Dates

Col. Riffle made a motion that the Commission accepted the 2010 meeting dates as given. Dr. Haddock stated that he seconded this motion if we could make a modification that if the January 28th meeting needs to be here (Elm Street Conference Center) because of the needs of the hearing, then we can accept that as well. Dr. Haddock asked Col. Riffle if he was okay with this amendment. Col. Riffle said yes. Chairman DiPardo called for a roll call vote. He asked Counsel if it needs to be a roll call vote. Attorney Jenny Frazier responded that she would always do a roll call vote unless it is like an approval of the minutes.

A roll call vote was taken:

Commissioner Riffle: yes
Commissioner Matherly – yes
Commissioner Totten – yes
Commissioner Gillman – yes
Commissioner Ripperger – yes
Commissioner Haddock – yes
Chairman DiPardo – yes

The motion passed unanimously with 7 yes votes to 0.

Comments from the Public

Steve Rudloff, Limestone Producers Association, stated that based on inadequate information and probably false assumptions, please take this for what it is worth. He stated inadequate information because he didn't see any of the legal documents related to the Buildex appeal and he hadn't talked to any of the attorneys, but just what he has heard today, the Commission frequently does hear very emotional appeals like what was referenced earlier and that is understandable, he thinks people have fears and concerns about operations coming in their neighborhood. He also stated that he thinks that this is a good place for them to come and express those concerns and there is another opportunity too for the public meetings, but it seems

like a lot of times the Company fears that this will just delay the process even more, so they decline that opportunity. He also stated in just thinking about what he heard, it seemed like ideally there might be a step from the emotional appeal, a step between there and the formal hearing, where individuals would have to present their legal arguments, which what they would expect to be their legal arguments and obviously, they would need some kind of legal representation to develop those, but then the Commission would evaluate those to decide whether or not there is going to be a hearing, that is a step that will probably take some type of statutory change but after just listening to what he heard, I guess in an ideal world that might be a good way to save the Commission and Staff a lot of time and money and individuals money and so forth. Mr. Rudloff thought he would just mention this information to the Commission for what it is worth.

Commissioner Dr. Haddock stated that he thought this would turn every hearing into a pre-hearing and you have been to enough of these meetings where we have seen where some representation, usually from industry would come up and say, you shouldn't be listening to any of this because this sounds too official and that this sounds like the actual hearing. Dr. Haddock stated that he thinks there is a delicate balance. Dr. Haddock stated that he doesn't think that the answer is to include this in the legislature that the public needs to come before a Public Commission with representation because I don't think that is what the intent of the Commission is for. The Commission is here for the Governor, which is for the people.

Mr. Rudloff stated that his comment was just a stab in the dark statement that he thought of after listening to today's comments. He also stated that he thought maybe there would be a better way to handle it, but it may not work very well either, it was just some thoughts. Chairman DiPardo thanked him for that.

CLOSED SESSION

Commissioner Gillman made a motion that the Land Reclamation Commission meet in closed session on January 28th, 2010 prior to an open meeting for the purpose of discussing personnel actions, legal actions, causes of actions or litigation as provided in Section 610.021 RSMo, 2003. Dr. Haddock seconded the motion. Chairman DiPardo asked for a roll call vote:

Commissioner Matherly: yes
Commissioner Totten: yes
Commissioner Gillman: yes
Commissioner Ripperger: yes
Commissioner Riffle: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed unanimously with 7 yes votes to 0.

ADJOURNMENT OF MEETING

Col. Riffle made a motion to adjourn the meeting. Mr. Matherly seconded the motion. The motion carried unanimously.

Respectfully submitted,

Chairman