

**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
NIGHTINGALE CREEK/LACHARRETTE CONFERENCE ROOM
LEWIS AND CLARK STATE OFFICE BUILDING
1101 RIVERSIDE DRIVE
JEFFERSON CITY, MISSOURI
SEPTEMBER 26, 2013**

Chairman Jim DiPardo called the meeting to order on September 26, 2013 at 10:00 a.m., at the Department of Natural Resources, Lewis and Clark State Office Building, Nightingale Creek/LaCharrette Conference Room, located at 1101 Riverside Drive, in Jefferson City, Missouri.

Commissioners Present: Chairman Jim DiPardo; Commissioner Gregory Haddock, Vice Chairman; Commissioner Leslie Gertsch; Commissioner John Madras; Commissioner Joe Gillman. Not Present: Commissioner Aaron Jeffries.

Staff Present: Kevin Mohammadi, Program Director; Lauren Cole; Bill Zeaman; Don Cripe; Beth Aubuchon; Larry Slechta; Teri Bibbs; Rosie Schulte; Tucker Fredrickson; Greg Snellen; Kurtis Cooper.

Others Present: Daren Eppley, Attorney General's Office; Van Beydler, Department of Natural Resources, Division of Environmental Quality Administration; Danny Lyskowski, Department of Natural Resources; Lorisa Smith, Department of Natural Resources, Division of Environmental Quality; Llona Weiss, DED, Division of Energy; Steve Rudloff, MLPA; Mike Carlson, Gredell Engineering; Dewayne Slinkard; Gerald F. Downs; Katharine Penfield; Jane Hardy; Glen Penfield; Denise LaRose; Len Meier, OSM; Michael Miller; Jim Hardy; Steve Mauer, Joint Sewer Board; Melody Rayl, Joint Sewer Board; Taylor DeCorrevont, Summit Proppants; Mark Rust, Summit Proppants; Mark Wintenheimer, Summit Proppants; Gary Shaver, Quality Structures; Angela Wood, Quality Structures; Jay Dobbs, Polsinelli for Magruder Limestone; Adam Troutwine, Polsinelli for Magruder Limestone; Chris Thiltgen, Capital Quarries; Penny Lyons, Osage Beach; Gary Hutchcraft, Alliance Water Resources; Nicholas Edelman, Osage Beach; Dean Smart, MEC; Howard K. Crites; Rebecca Beasley; Jason Branstetter, CSC; Toby Carrig, Ste. Gen. Herald.

Approval of July 25, 2013 Commission Meeting Minutes

Agenda Item #2

Commissioner Gertsch made a motion to approve the July 25, 2013, Meeting Minutes as written. Commissioner Haddock seconded the motion. The motion passed unanimously.

Adoption of Orders of Rulemaking

Agenda Item #3

Staff Director Kevin Mohammadi presented the Commission with five (5) Orders of Rulemaking for adoption. These amendments were published in the August 15, 2013 edition of the Missouri Register. The rules being amended include 10 CSR40-6.030, Surface Mining Permit

Applications – Minimum Requirements for Legal, Financial, Compliance and Related Information; 10 CSR40-6.070, Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions; 10 CSR40-6.100, Underground Mining Permit Applications – Minimum Requirements for Reclamation and Operations Plan; 10CSR40-8.030, Permanent Program Inspection and Enforcement; and 10CSR40-8.040, Penalty Assessment. Director Mohammadi provided the anticipated schedule for processing the Orders of Rulemaking. No comments were received and stakeholders were contacted and had no comments.

Commissioner Haddock made a motion to adopt the five (5) Orders of Rulemaking that have been proposed. Commissioner Gertsch seconded the motion. The motion passed unanimously.

INDUSTRIAL MINERALS

Administrative Hearing Commission’s Recommended Decision in Reference to Magruder Limestone Company, Inc.’s Permit Application

Agenda Item #4

Bill Zeaman, Chief, Non-Coal Unit, presented this matter to the Commission. On June 27, 2013, Administrative Hearing Commission Hearing Officer Karen Winn rendered her recommended decision regarding the Magruder Limestone Co., Inc. permit application for a limestone quarry in Miller County, Missouri. The hearing officer recommended to the Land Reclamation Commission to issue a mining permit to Magruder with eight (8) conditions and one (1) recommendation for the Land Reclamation Commission to consider. The Land Reclamation Program reviewed the recommendation of the hearing officer and recommended modifications to some of the conditions. The recommendations presented by Bill Zeaman are as follows:

1. All use of explosives shall be specifically planned and monitored by a licensed blaster under the Missouri Blasting Safety Act and shall only be conducted on weekdays between the hours of 8:00 a.m. and 5:00 p.m., Central Daylight, unless documented by an adverse weather condition(s) or any unpredictable hazard. The Permittee shall monitor each detonation with a seismograph at the closest point to the sewer line easement, the closest point to the sewage treatment plant on the Magruder property and also the nearest uncontrolled structure in accordance with Missouri Blasting Safety Act section 11 CSR 40-7.010(9)(G)&(H). All planned detonation of explosives shall not be conducted closer than 200 linear feet to the nearest easement line of the Osage Beach sewer line easement. The Permittee shall also satisfy all other applicable requirements of the Missouri Blasting Safety Act.

The justification for the above modification is that the proposed language requires the permittee to comply with the Missouri Blasting Safety Act that blasting is regulated under. The 200 feet of buffer to the sewer easement provides additional protection beyond what was recommended in the blast plan. The seismographs provide a measurement of acoustic and ground vibrations for the sewer lines, the treatment plant along with the structure that requires protection, which is the nearest uncontrolled structure and is practical for enforcing as a condition of the permit.

2. Requirements under condition 1 shall apply to the entire 205-acre site.

3. The Permittee shall contact the City of Osage Beach administrator's office by telephone 24 hours in advance prior to each blast and provide approximate time of detonation. Telephone contact must be made to a person and not on a voicemail, between the hours of 8:00 a.m. and 5:00 p.m.

This condition was slightly modified to provide specific time frames for an advance notice of blasting rather than leaving this condition with a vague interpretation "notify sewer plant staff prior to each blast", which could be a week, day or two seconds prior to detonation. This proposal also puts the responsibility on permittee to contact the City Administrator in advance prior to blasting rather than sewer plant staff.

4. Condition 4 was modified slightly from the original recommendation staff had prepared and placed in the packets for the meeting, and was altered to match the original recommendation of Hearing Officer Tichenor, from the first hearing. The condition deals with the elevation of the mine floor. The elevation of the floor of the mine (quarry) shall run at or above the grade of the City of Osage Beach's sewer line easement as it crosses the Magruder property, so that no blasting holes will be drilled to a depth that would be below the elevation of that grade. Permittee shall submit an annual report prepared by a Missouri registered Professional Engineer to verify compliance with this requirement.

Justification for the above modification is that the proposed language is easier to understand for all parties and meets the intent of the Administrative Hearing Commission's recommendation.

5. Permittee shall not pile any rock within 150 feet of the sewer line easement.

This was slightly modified for all parties to understand that no pile of rock will be tolerated within 150 feet whether the pile of rock is a stockpile or not.

6. Trucks or other heavy equipment shall not travel over the sewer easement line. If that necessity arises, Magruder shall consult with the Sewer Board and the City of Osage Beach to engineer and build a safe crossing over the sewer line.

Staff recommendation is not to include this as a condition of the permit because this condition is between the company and the Sewer Board.

7. Magruder shall employ the best available technology for dust suppression and control.

Staff recommendation is not to include this as a condition of the permit because this activity will be regulated and enforceable under the Missouri Clean Air Conservation Law.

8. If the Sewer Board documents a correlation between blasting at the quarry site and disruption to the UV system, Magruder shall pay the cost of repairs and shall adjust its blasts to eliminate or minimize such disruption.

Staff recommendation is not to include this as a condition of the permit because it's not feasible for Land Reclamation Program staff to make a determination as to a cause of UV system disruption and nearly impossible to enforce.

Lastly, the recommended consideration of whether to require circumferential strain gauges, staff agrees that this recommendation is a good idea for the Land Reclamation Commission to consider, however, it is between the Sewer Board and Magruder to work it out if they so choose. In addition, staff remains concerned about compromising the structural integrity of the sewer line by imposition of such a condition.

As a courtesy, Chairman DiPardo allowed each side five (5) minutes before the Commission.

Steve Mauer, representing Melody Rayl, Penny Lyons, and Gary Hutchcraft and on behalf of the Joint Sewer Board, addressed the Commission. Mr. Mauer presented maps showing the extent of the sewer lines of the Joint Sewer Board and the location of the proposed quarry by Magruder in relation to those sewer lines. Mr. Mauer explained the history regarding the litigation of this case and stated that 2 of the 5 blasts Magruder has done on the proposed site have damaged the sewer system. Mr. Mauer stated that Commissioner Winn recommended the conditions on the permit to protect the Petitioners, who met their burden to show there would be an adverse impact. Mr. Mauer stated that by removing those conditions, which he doesn't believe will really protect the Petitioners as they are meant to do by Commissioner Winn, the protections are being removed because the conditions staff recommend removing are the very ones meant to protect the Petitioners. Mr. Mauer stated that if the protections are removed, the permit must be denied under statute because Magruder has the responsibility of solving the problems, which they have not done. Mr. Mauer submitted a copy of his PowerPoint presentation for the record.

Mr. Jay Dobbs spoke to the Commission representing Magruder. Mr. Dobbs addressed the recommendations staff presented to the Commission. He first stated that the evidence supports a 150-foot setback rather than the 200-foot buffer for blasting in relation to the sewer lines, which is many times over what is actually necessary. The second point Mr. Dobbs made was in regards to making telephone contact; he suggested follow-up with a fax if contact is not made, in case calls from Magruder are not taken. Mr. Dobbs then addressed the comments of Mr. Mauer. Mr. Dobbs stated that every issue presented during the hearing was resolved. Mr. Dobbs referred to the blast plan which must be followed and explained that it is a very conservative blast plan. He also referenced the blasting for the Highway 54 project and stated that there was no damage from the much larger blasts for that project and the Sewer Board never expressed any concerns with those blasts. Mr. Dobbs concluded by stating that Magruder has met its burden of proof and it is time for Magruder to have their permit.

The Commissioners discussed the language for Condition 4. Mr. Zeaman clarified that the grade of the sewer line easement is at the top of the ground because the actual sewer line depth is not known in response to a question from Commissioner Gertsch. Commissioner Haddock suggested the language be changed to include "at the surface" following "The elevation of the floor of the mine (quarry) shall run at or above the grade of the City of Osage Beach's sewer line easement as it crosses the Magruder property..." for clarity.

Commissioner Haddock made a motion to adopt the findings of the hearing officer with the changes presented by staff and the further change for condition 4 to include the words “at the surface” following “the Magruder property”. Commissioner Gertsch seconded the motion. Commissioner Madras commented that this matter has been through multiple analyses and much of it revolves around responsibility, and he feels that these conditions narrowed the aspects to the things that are under the jurisdiction of the Land Reclamation Program while other issues are enforced in different ways but they are addressed. A roll call vote was taken.

Commissioner Madras: yes
Commissioner Gillman: yes
Commissioner Gertsch: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed with 5 yes votes.

Gary Shaver, Taney County: Update on Consent Judgment and Request for a Hearing
Agenda Item #5

Bill Zeaman, Chief, Non-Coal Unit, presented this matter to the Commission. Mr. Zeaman explained that this issue was tabled by the Commission when it was last brought before them.

A motion was made by Commissioner Gertsch to bring the matter off the table to open discussion. Commissioner Haddock seconded the motion. The motion passed unanimously.

Mr. Zeaman explained that the Commission had tabled the matter to allow Mr. Shaver to work with Land Reclamation Program staff in order to reach a Consent Judgment to reach compliance. The Consent Judgment was entered into on July 22, 2013 by the Taney County Circuit Court and required payment of a \$15,000 civil penalty with \$8,000 upfront and \$7,000 suspended on the condition Mr. Shaver complies with the implementing laws and regulations, as well as the Consent Judgment. Mr. Zeaman explained that there have been some issues since the signing of the Consent Judgment. Mr. Zeaman explained that the \$8,000 payment was not received within the required timeframe and therefore payment of the suspended penalty and \$3,000 in stipulated penalties came to be required. Mr. Zeaman further explained there were several issues with a blast, including the fact that a seismograph was not used as required by the Consent Judgment and decimal degrees were not included in the blast log. Mr. Zeaman also noted that the Consent Judgment was not shared with the blaster and other staff as required by the conditions of the Judgment. Mr. Zeaman did state that Mr. Shaver has complied with some portions of the Consent Judgment.

Gerald Downs addressed the Commission in opposition of the permit expansion for Mr. Shaver. Mr. Downs thanked the Commission for allowing him to speak and identified that he lives in the Wilderness Club RV Park. Mr. Downs explained to the Commission that following a blast by Mr. Shaver on June 20, 2012 for which Mr. Shaver received a Notice of Violation, a crack was discovered on the inside pane of a double-paned picture window in his home. Mr. Downs stated

that two (2) engineers, including one (1) from the State, have told him the crack is classic air blast damage. Mr. Downs showed pictures of the damaged window. Mr. Downs also informed the Commission of a blast on July 12, 2013 that produced dust obscuring the lower portion of the club. Mr. Downs then showed pictures of burning on Mr. Shaver's property, which he claimed could not be natural vegetation because the smoke was too dark and one picture showed an object that Mr. Downs stated was not vegetation. Mr. Downs went on to explain that Mr. Shaver has made no offer to fix the damaged window which he believes was caused by Shaver's blasting activity and has shown a blatant disregard for the community. Mr. Downs further expressed concerns with Mr. Shaver mining on unpermitted land over a time period beginning in 2007. Finally, Mr. Downs requested the Commission deny the permit expansion at this time and monitor his situation for a couple years on his current site.

Rebecca Beasley addressed the Commission in opposition of the permit expansion for Gary Shaver. Ms. Beasley showed on the map where her home was located in relation to Gary Shaver's property. Ms. Beasley expressed concerns with trash and equipment on her property that she would like removed. She explained that she did not want to shut him down, and she did not have any problems with Mr. Shaver, she just wanted it cleaned up. Ms. Beasley also questioned if this property was truly going to be turned into storage properties as she had been told in a meeting with Mr. Shaver. Ms. Beasley stated that she had been told it would only take 1-2 years to finish the project. Ms. Beasley expressed concerns with the dust coming onto her property. She explained the blaster Mr. Shaver uses has been asked multiple times for his insurance, which he will not provide to anyone. Ms. Beasley stated that she would like a 6-8 foot privacy fence between her property and Mr. Shaver's. She also requested that the hours of operation be reduced from seven (7) days a week and not start before 9:00 a.m. on Saturday and end by 5:00 p.m. Ms. Beasley also stated that she would like to see a permit issued for one (1) to two (2) years at a time to give Mr. Shaver a chance to put up the warehouse buildings, if that is his intention.

Following Ms. Beasley, Mr. Gary Shaver addressed the Commission. Mr. Shaver began by stating that he did not realize the \$8,000 penalty would be an issue and showed the Commissioners the email exchange with Jeremy Knee, Attorney General's Office, in regards to payment of the penalty. Mr. Shaver stated that he had been told it normally took the judge 60 days to sign the Consent Judgment, and he would have 30 days from the time the judge signed before the payment was due. Mr. Shaver stated that he had contacted Mr. Knee regarding the payment and was told the Judgment hadn't been signed at that time, and he paid the penalty precisely when he was told. Mr. Shaver then presented a timeline to the Commissioners regarding his Land Disturbance Permit and a mining permit. He explained the work he was doing on the property with cutting and filling and what area he was mining from 2007 to 2012, when he received a summons from Taney County. Mr. Shaver also went over the timeline for when he was issued the summons because the Commission had previously asked why it took so long to serve him. He explained that on May 16 the summons was issued by Taney County, on May 23 the summons was delivered to him, and the very next day he emailed Mr. Robert Menees requesting an onsite meeting, which was held June 7. Mr. Shaver presented a letter to the Commission from the closest neighbor of the quarry stating that he has not had any problems with dust from the quarry. Mr. Shaver also told the Commission that the RV Park has stakes on his property and that they are planting plants on his property according to a survey from Taney

County; he also presented pictures of storm-damaged trees that residents of the RV Park have placed on his property. Mr. Shaver presented information regarding the claim from Mr. Downs for the broken window. He explained that the violation he received from that blast was because the person who records the latitude/longitude for the blaster did not get the numbers written on the paper because he wasn't there at the time, but they did have it. Mr. Shaver stated that he had a glass company, Glass Pro, inspect the window and they explained that the tint and other factors were trapping the heat, and the gap between the panes of glass was an issue. Mr. Shaver explained that he did a 7-hole blast to build a road to the mine area, but didn't have a seismograph because the blaster said due to the size of the blast it wouldn't even show up on a seismograph and it wasn't required by law. Mr. Shaver stated that he realized after the fact that he was supposed to have a seismograph set up for any blast according to the Consent Judgment.

Commissioner Haddock questioned Mr. Shaver's claim that the engineer stated the window was 2,000 meters away, and Mr. Shaver clarified that it was actually 2,000 feet. He further explained that the back side of the house faces the quarry, and the window that broke is on the front side of the house. Commissioner Haddock also asked Mr. Shaver about receiving the Consent Judgment and his use of the term "fine print". In response to Commissioner Haddock's question about the letter from L and D Drilling stating that a seismograph was not required, Mr. Shaver explained that he had told them only that they had to stay within the law and that they were under a magnifying glass, but he had not given them a copy of the Consent Judgment. Mr. Shaver stated that he doesn't know if he still has received a signed and final copy of the Consent Judgment from the judge after discussion of the emails between Mr. Shaver and Mr. Jeremy Knee regarding the payment of the \$8,000 penalty. Commissioner Gillman asked Mr. Shaver if he was currently mining in the permitted area and how much material he had left to mine in that area. Mr. Shaver responded that he is mining that area and could continue mining that 8-acre area for 25-30 years. Director Mohammadi responded to a question from Chairman DiPardo regarding activities allowed under land disturbance permits.

Commissioner Madras made a motion to allow the continuation of mining on the existing 8 acres currently permitted and to deny the expansion application. Commissioner Haddock seconded the motion. A roll call vote was taken.

Commissioner Gertch: yes
Commissioner Madras: yes
Commissioner Gillman: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed with 5 yes votes.

Point of Order: It was determined no action was necessary regarding the request for a hearing in this matter because the permit was denied by the Commission.

Summit Proppants, LLC, Ste. Genevieve County, Colony Church Site, Proposed Sandstone Mine, Total of 80 Acres: Request for a Hearing
Agenda Item #6

Don Cripe, Environmental Specialist III, reported on this Agenda Item to the Commission. On February 26, 2013 the Land Reclamation Program received a new permit application from Summit Proppants, Inc. for a sandstone mine in Ste. Genevieve County. The application was deemed technically complete and the public notice was run in *The Ste. Genevieve Herald* in accordance with 493.050 RSMo and certified letters were sent to the proper officials as required. Based on the definition of contiguous and adjacent, the neighboring landowners were not required to be notified based on the mine plan boundary. The Staff Director received 12 letters for an informal public meeting and 9 requests for a formal hearing. Summit Proppants, Inc., held an informal public meeting on May 21, 2013 with 84 people signing in. Many of the issues raised during the informal public meeting were local planning and zoning issues which the Land Reclamation Program has no authority over. After consideration of issues provided in the letters and concerns that were raised at the meeting, the Director's recommendation is to issue the permit for a total of 80 acres to the new site application, sought by Summit Proppants, Inc., in Ste. Genevieve County. The Director's recommendation for approving this new site permit application is based on the fact that the company has satisfied the requirements for application completeness and permit issuance. Mr. Cripe explained to the Commission that while organizing the permit application, a copy of the receipt of certified mail from Summit to the County Commission could not be located; however, the Ste. Genevieve County Commissioner was present at the informal public meeting and acknowledged receipt of the letter during that meeting. Upon discovering it was missing, Summit was contacted and they supplied a copy and it was confirmed that it was delivered in a timely manner to the County Commission. Mr. Cripe requested the Commission determine if the petitioners have standing to be granted a formal hearing.

Denise LaRose addressed the Commission in opposition of the permit for Summit Proppants. Ms. LaRose expressed concern with the lack of notification due to the 5-foot buffer. Ms. LaRose explained that she filed bankruptcy last year but decided to keep her house. She stated that she kept her house because she had planned to find a roommate and board horses, which she would not have done if she had known about the proposed mine. Ms. LaRose stated that this has affected her ability to make money, and she has to sell things just to get by to keep her place because people don't want to board the horses or live there with the mine coming in. Ms. LaRose also expressed concern with the safety of pulling out of her driveway due to 18-wheelers not being able to see her or stop because of the visibility due to a hill. She stated that was the only way to get into her property.

Jim Hardy addressed the Commission in opposition of the permit for Summit Proppants. Mr. Hardy thanked the Commission for allowing him to speak. Mr. Hardy explained that he was there on behalf of his wife, who has restless leg syndrome. He stated that stress and excess noise aggravate the condition. Mr. Hardy stated that he spoke with one of the principals of Summit who told him they would be able to hear the back-up alarms from their home. Mr. Hardy stated that with the projected production levels, there will be 100 passes a day by the trucks. Mr. Hardy presented the Commission with documents from his wife's doctors regarding her condition, and also stated that she sees four (4) different doctors, one (1) of whom specializes in restless leg syndrome. Mr. Hardy referenced the FTS site in Brewer and stated that he feared the same type of things would happen to their community as well.

Michael Miller addressed the Commission in opposition of the permit for Summit Proppants. Mr. Miller thanked the Commission for the opportunity to present his concerns against Summit Proppants. Mr. Miller stated that there were areas of the law that have not been complied with. Mr. Miller stated that his greatest concern was his granddaughter who has various conditions described as a rare disease. He also presented a Federal Individual 504 Non-Discrimination Plan to the Commission. Mr. Miller stated that the school sends a teacher to her home, where she is provided the education that she cannot receive in the school because of her conditions. Mr. Miller stated that his granddaughter's home is within 400 feet of the proposed mine site, and therefore the 1,000 foot boundary from an accredited school is not met. Mr. Miller went on to say that he has numerous other concerns. The first of these concerns related to the mine plan boundary being set back five (5) feet from the property boundary. Mr. Miller also stated that the Department did not receive their certified letter that the county had been sent their letter until September 13, 2013. Mr. Miller stated that this letter must be received prior to the Staff Director making his recommendation, which was made June 17, 2013. Mr. Miller expressed concern that the maps submitted did not show utilities nor section, township, and range as required. Mr. Miller was also concerned that Mark Wintenheimer represented himself as a geologist at the informal public meeting, when he is not a registered geologist in the State of Missouri. Finally, Mr. Miller expressed concern about the maps and mining information being drawn up by a company that is not registered to do business in the State of Missouri. Mr. Miller submitted a copy of the 504 Non-Discrimination Plan for the record.

Katharine Penfield addressed the Commission in opposition of the permit for Summit Proppants. Ms. Penfield stated that her property is right next to the property where the mine is going to be going in. Ms. Penfield stated that she has COPD and asthma and expressed concern that the fine sand particles would be breathed in and stay in her lungs. Ms. Penfield further explained that she has two (2) sons that live on her property and do shift work/night work. She stated that she doesn't know how they will be able to get any rest. Ms. Penfield claimed that this business would not benefit anyone living there. Ms. Penfield and her husband, Mr. Glen Penfield, pointed out the location of their property on the map to show the Commission.

Mark Rust, one of the owners of Summit Proppants, addressed the Commission. Mr. Rust explained to the Commission some of the things they did to try to address concerns of the community. He mentioned actions Summit will take to minimize noise, help with truck traffic, and safety precautions that will be taken. Mr. Rust explained details of the planned blasting and pre-blast surveys. Mr. Rust spoke about stream integrity and wildlife impact. Mr. Rust discussed the US Fish and Wildlife's recommendation to remove trees during the hibernation period of the Indiana Bat and explained the tree removal on site following that recommendation. Mr. Rust also discussed ground-water and the amount of water the operation is planning to use as well as storage basins and the production well. Mr. Rust then discussed air quality and actions that will be taken to protect air quality. Finally, Mr. Rust stated that although several residents have expressed concerns regarding medical issues, Summit has not been contacted by any physicians for information on the specifics of their operation. Mr. Rust also noted that he has spoken with Mr. Michael Miller about Summit buying the property and the Millers relocating to resolve some of the issues, and Mr. Miller has stated that this could be a possibility. In closing, Mr. Rust stated that they would have an open door policy to address future concerns of neighbors and they will do what they can to minimize any impact.

Commissioner Gertsch asked Mr. Rust about the map of the mine plan and Mr. Rust explained the areas that would be mined to begin with and further explained the long-term mine plan and the areas for stockpiles and the wash facility. Chairman DiPardo asked about the number of blasts planned and the amount to be produced; Mr. Rust explained that they would probably blast every other day and they plan to have about 1,500 tons per day of finished project. Mr. Rust also explained the plans to use a large crusher at a slowed-down speed.

Commissioner Haddock asked Mr. Daren Eppley if Counsel would be able to facilitate with the explanation of the interpretation of the Federal Non-Discrimination Plan. Mr. Eppley explained that it appeared Mr. Miller was asking for a buffer from a school, in accordance with the state statute requiring a 1,000 buffer from an accredited school [444.771 RSMo]. Mr. Eppley did state that he was unfamiliar with the plan, which was just received, but that his office would be able to undertake the review and render an opinion on the Plan. Mr. Eppley also stated that the Plan did appear to have been reviewed and approved by the Farmington School District.

Commissioner Haddock made a motion to table the matter to an open conference call meeting at a point set to get information on the non-discrimination plan and see if it would allow standing for a hearing and make a decision at that time. Commissioner Madras seconded the motion and amended to have staff look in the other allegations made by Mr. Miller. Commissioner Gillman questioned from a procedural standpoint if the presence of a school would be considered standing, or if that would just be covered by the 1,000 foot set-back requirement within the statute and the permit just couldn't be issued. Mr. Eppley confirmed that the statute would control, and it would be a statutory requirement if the home were to qualify as a school. There was additional discussion among the Commission regarding the issue of standing and the issue of the 1,000 buffer. Mr. Eppley stated he would provide a status report in approximately two (2) weeks in a closed session discussion and action on the permit and hearing request would be done later at an open hearing.

Commissioner Madras made a motion to meet in closed session for the purpose of discussing personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo 2003. Commissioner Gertsch seconded the motion. A roll call vote was taken.

Commissioner Madras: yes
Commissioner Gillman: yes
Commissioner Gertsch: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed with 5 yes votes.

The Commission adjourned to closed session at 2:45 p.m. The Commission resumed the open session at 2:55 p.m.

Commissioner Haddock restated his motion to table the decision to meet in closed session in roughly two (2) weeks to get more information from Counsel. A roll call vote was taken.

Commissioner Gertsch: yes
Commissioner Madras: yes
Commission Gillman: yes
Commissioner Haddock: yes
Chairman DiPardo: yes

The motion passed with 5 yes votes. Commissioner Haddock reiterated the motion and stated that following the closed session conference call the Commission would meet either in open session at a special meeting which the concerned parties would be invited to or at the scheduled meeting in November for the decision to be made.

Mid America Brick and Structural Clay Products, LLC, Formal Complaint: Failure to Renew Permit

Agenda Item #7

Beth Aubuchon, Environmental Specialist II, reported on this Agenda Item to the Commission. The request was for issuance of Formal Complaint #2727 to Mid America Brick and Structural Clay Products, LLC for failure to renew permit #1068. On July 26, 2013 Mid America Brick contacted the Land Reclamation Program and stated that the company is in bankruptcy and will not be renewing the permit due to lack of funds. On July 29, 2013, the Land Reclamation Program sent Mid America Brick & Structural Clay Products, LLC a letter suspending its permit due to their bankruptcy. The letter also explained that on August 1, 2013 the permit expires and if it is not renewed a Notice of Violation will be issued. Notice of Violation #1068-001 was issued to Mid America Brick & Structural Clay Products, LLC for failure to renew their permit on August 1, 2013. Mid America Brick & Structural Clay Products, LLC did not abate the violation within 15 days as required by the Notice of Violation and staff requested the issuance of Formal Complaint #2727.

Commissioner Gertsch made a motion to issue the formal complaint against Mid America Brick and Structural Clay Products, LLC, permit #1068 as recommended. Commissioner Haddock seconded the motion. The motion passed unanimously.

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

Agenda Item #8

Larry Slechta, Environmental Specialist III, reported on this Agenda Item to the Commission. There was no action required by the Commission. This Summary was provided for the Commission's information. The Commission thanked him for his report.

PERMITS, CONTRACTS AND DESIGN

Abandoned Mined Lands Status Update

Agenda Item #9

Greg Snellen Environmental Specialist III, Contracts and Design Unit, reported on this Agenda Item. There was no action required by the Commission. The Commission thanked him for his report.

OTHER

Comments from the Public

Agenda Item #10

There were no additional comments from the public.

CLOSED SESSION

Commissioner Madras made a motion that the Land Reclamation Commission meet in Closed Session on November 21, 2013, or before if needed, 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. Commissioner Gertsch seconded the motion. The motion passed unanimously. Commissioner Haddock was not present for the vote.

ADJOURNMENT OF MEETING

The Meeting adjourned at 3:10 p.m.

Respectfully submitted,

Chairman