

**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
NIGHTINGALE CREEK CONFERENCE ROOM
LEWIS AND CLARK STATE OFFICE BUILDING
1101 RIVERSIDE DRIVE
JEFFERSON CITY, MISSOURI
NOVEMBER 21, 2013**

Vice Chairman Gregory Haddock called the meeting to order on November 21, 2013 at 8:41 a.m., at the Department of Natural Resources, Lewis and Clark State Office Building, Nightingale Creek Conference Room, located at 1101 Riverside Drive, in Jefferson City, Missouri.

Commissioners Present: Dr. Gregory Haddock, Vice Chairman; Commissioner John Madras; Commissioner Joe Gillman; Commissioner Aaron Jeffries. **Not Present:** Commissioner Leslie Gertsch; Chairman Jim DiPardo (present via phone for a portion of the meeting).

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; Gene Noe; Guy Frazier; Steve Femmer; Richard Harris; Mike Mueller; Dave Dowdy.

Others Present: Daren Eppley, Attorney General's Office; Van Beydler, Department of Natural Resources, Division of Environmental Quality Administration; Danny Lyskowski, General Counsel's Office, Department of Natural Resources; Steve Rudloff, MLPA; Michael Miller; Jim Hardy; Taylor DeCorrevont, Summit Proppants; Mark Rust, Summit Proppants; Mark Wintenheimer, Summit Proppants; Chris Thiltgen, Capital Quarries; W.K. Jenkins; Glen Penfield, Katharine Penfield; Mike Schaffer; Kris Husted, DCBA.

Roll Call for Commission to go to Closed Session Meeting Until 10:00 a.m.

Agenda Item #2

A motion was made by Commissioner Jeffries to go to closed session in accordance with section 610.021 for purposes of actions of litigation, legal actions and personnel actions until 10:00 a.m. Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice-Chairman Haddock: Yes

The motion passed with 4 yes votes. The Commission met in closed session and returned to open session at 10:00 a.m. Vice Chairman Haddock again called the meeting to order.

Approval of September 26, 2013 Commission Meeting Minutes

Agenda Item #5

Commissioner Madras made a motion to approve the September 26, 2013, Meeting Minutes as written. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Commissioner Madras: Yes
Vice-Chairman Haddock: Yes

The motion passed with 4 yes votes.

INDUSTRIAL MINERALS

Summit Proppants, LLC, Ste. Genevieve County, Colony Church Site, Proposed Sandstone Mine – Request for a Hearing

Agenda Item #6

Vice Chairman Haddock stated that this matter had been tabled by the Commission at the previous meeting on September 26, 2013. A motion was made by Commissioner Madras to take up the matter of Summit Proppants, LLC as tabled previously. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Jeffries: Yes
Commissioner Madras: Yes
Commissioner Gillman: Yes
Vice Chairman Haddock: Yes

The motion passed with 4 yes votes.

Vice Chairman Haddock explained that this matter was tabled previously to allow the Commission to get more background information from the Commission's legal counsel based on items presented during the September 26, 2013 meeting, in particular the issue of the 504 Plan. Daren Eppley, the Commission's legal counsel, explained that his opinion was that the statute (444.771 RSMo) prohibiting the issuance of mining permits within 1,000 feet of the real property of an accredited school in existence for five years prior to the mine permit application did not apply to a residence where the local school district was providing in home educational services in accordance with a 504 Non-discrimination Plan and the 5-year time frame was not met.

Mr. Michael Schaffer appeared before the Commission to request a formal public hearing. Mr. Schaffer spoke about another mining company in Perry County, Missouri that was found to be harmful and the company was shut down based on those factors. Chairman DiPardo joined the meeting by telephonic connection at the beginning of Mr. Schaffer's testimony.

Mr. Michael Miller addressed the Commission with additional information on the 504 Plan for his granddaughter and additional information on the Ste. Genevieve County Commission

Meeting. Mr. Miller presented the Commission with minutes from the Thursday, August 29, 2013 Ste. Genevieve County Commission meeting. In regard to the five-year aspect of the school, Mr. Miller gave the Commission the example of the Joplin High School, which was destroyed by a tornado, and they had to move to a new location. Mr. Miller further stated that he wanted answers to the questions he submitted for the September 26, 2013 meeting. Director Mohammadi explained that the response was part of Attachment 1 to the Director's Recommendation and Mr. Eppley stated that the response was public record and could be obtained through a Sunshine Request. Finally, Mr. Miller stated that the Commission should have a neutral position between the applicant and the public opposing the permit, and that position has not been adhered to.

A motion was made by Commissioner Gillman to deny the request for a formal public hearing in the case of Summit Proppants. Commissioner Jeffries seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: Yes

The motion passed with 5 yes votes.

A motion was made by Commissioner Madras to accept the staff recommendation to proceed with issuance of the permit. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: Yes

The motion passed with 5 yes votes.

Mid America Brick and Structural Clay Products, LLC – Permit Revocation

Agenda Item #7

Beth Aubuchon, Environmental Specialist II, Non-Coal Unit, presented this matter to the Commission. Ms. Aubuchon reminded the Commission that Mid America Brick and Structural Clay Products, LLC was issued a Formal Complaint by the Commission in the September 26, 2013 meeting for failure to renew the permit. Ms. Aubuchon stated that the violations had not been abated and a hearing was not requested. The Program is now seeking revocation of the permit, but at this time the Program is not seeking forfeiture of the bond because the issuing company for the bond is working with the Program on a Settlement Agreement. Ms. Aubuchon explained that neither of the sites is being actively mined at this time.

A motion was made by Commissioner Jeffries to take staff's recommendation to revoke Permit 1068. Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: Yes

The motion passed with 5 yes votes.

It appears the telephone connection with Chairman DiPardo was lost sometime after this vote; there was no further participation from Chairman DiPardo subsequent to this vote.

Travis Sand & Gravel – Bond Forfeiture Release Request

Agenda Item #8

Tucker Fredrickson, Environmental Specialist III, Non-Coal Unit, presented this matter to the Commission. Mr. Fredrickson explained that the permit was revoked in 2010 after failing to renew the permit or complete reclamation. The site has been naturally reclaimed and the bank that currently owns the site has been notified that the Program is seeking to release this site and is in agreement. No action was required by the Commission. There was no objection by the Commission to the release.

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

Agenda Item #9

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 #10

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.

PROJECTS AND INSPECTION UNIT

Bond Forfeiture Responsibility Release Requests for Riedel and Missouri Mining Inc.

Agenda Item #11

Gene Noe, Environmental Engineer, Projects and Inspection Unit, presented this item to the Commission. The first request was for release of a Missouri Mining, Inc. haul road and Pit 3.

A motion was made by Commissioner Jeffries to accept the recommendation to release responsibility of Missouri Mining Inc. Permit 78-25-A2 for 3.5 acres and Permit 1982-04 for 223 acres. Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: No Response

The motion passed with 4 yes votes.

Mr. Noe then presented the Commission with a request for release of responsibility for Riedel for land that has been reclaimed to pasture land.

A motion was made by Commissioner Madras to accept the recommendation to release responsibility of Permits 1982-11T and 1982-23. Commissioner Jeffries seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: No Response

The motion passed with 4 yes votes.

Director Mohammadi explained to the Commission that these releases were the final remaining responsibility requests for bond forfeiture work to be completed and thanked Mr. Noe for all his work. The Commission also thanked Mr. Noe.

OTHER

Approval of the 2014 Commission Meeting Dates **Agenda Item #12**

A motion was made by Commissioner Jeffries to approve the meeting dates as listed in the Commission packets. Commissioner Madras seconded the motion. A roll call vote was taken.

Commissioner Madras: Yes
Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: No Response

The motion passed with 4 yes votes.

Comments from the Public **Agenda Item #13**

Mr. W.K. Jenkins came before the Commission to request a bond reduction for the bonds he has put up for the reclamation of a mine. Mr. Jenkins explained that he believes the reclamation is 99% complete and stated that he had a former Land Reclamation Program employee come out to look at the land and do an inspection as well as provide a report that states this. Mr. Jenkins provided the Commission with his supporting documents for review.

NEW ITEMS

Baker Sand & Gravel – Motion to Approve Attorney General’s Office to File Petition in Cole County Circuit Court **Agenda Items #14**

Bill Zeaman, Unit Chief, Non Coal Unit, reported on this agenda item to the Commission. On January 5, 2012 Land Reclamation Program staff investigated a complaint on Roubidoux Creek in Pulaski County. During the investigation there was evidence of mining without a permit, mining below the naturally occurring low spot within a given reach of stream as this is in a dry section of Roubidoux Creek, leaving stockpiles in the stream channel, improper stream crossings, transporting material in the stream channel and allowing waste water from the wash plant to discharge silty water into Roubidoux Creek. Staff did attempt to work with Baker Sand and Gravel on additional dates after January 2012 with agreements that were not complied with by Baker Sand and Gravel.

On February 27, 2013, the Director of Missouri Department of Natural Resources referred the matter to the Missouri Attorney General’s Office. The injunctive relief in the referral included a civil action for compliance and penalties. The Attorney General’s Office drafted a Petition for collection of administrative penalties for past violations and stipulated penalties for any future violations of The Land Reclamation Act.

Because of past violations of the operator, staff recommends that the Land Reclamation Commission vote on a motion for the Attorney General’s Office to proceed with filing a Petition in Cole County Circuit Court.

Ms. Mel Wilson, Office Manager for Baker Sand & Gravel, addressed the Commission. Ms. Wilson acknowledged the violations, discussed some of the reasons for the violations and explained that the company has corrected the violations. She stated the company is working to stay in compliance. Ms. Wilson explained that layoffs could result if this issue proceeds with penalties.

Mr. Charles Eads, Controller for Baker Sand & Gravel, addressed the Commission. Mr. Eads explained that hiring an attorney to help with a lawsuit with the attorney general was not financially feasible for the small company; they are interested in pursuing a settlement with the State and would seek a payment schedule if there are fines that need to be paid.

Commissioner Madras made a statement explaining the necessity to formalize the process, including any settlement through a Consent Judgment. The Commission acknowledged the company’s desire to settle the matter and encouraged the company to work with the Attorney General’s Office to reach a Consent Judgment.

A motion was made by Commissioner Madras to accept staff's recommendation to refer the matter to the Attorney General's Office. Commissioner Jeffries seconded the motion. A roll call vote was taken.

Commissioner Gillman: Yes
Commissioner Jeffries: Yes
Commissioner Madras: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: No Response

The motion passed with 4 yes votes.

ADJOURNMENT OF MEETING

A motion was made by Commissioner Gillman to adjourn the meeting. Commissioner Jeffries seconded the motion. A roll call vote was taken.

Commissioner Jeffries: Yes
Commissioner Madras: Yes
Commissioner Gillman: Yes
Vice Chairman Haddock: Yes
Chairman DiPardo: No Response

The motion passed with 4 yes votes.

The Meeting adjourned at 11:20 p.m.

Respectfully submitted,

Chairman