



Jeremiah W. (Jay) Nixon, Governor

Sara Parker Pauley, Director

DEPARTMENT OF NATURAL RESOURCES

dnr.mo.gov

January 13, 2011

To All Petitioners

Dear Petitioners,

Thank you for your letter requesting a public meeting or a formal hearing involving the proposed new site permit expansion application regarding Strack Excavating, L.L.C., Site #2 in Cape Girardeau County. Strack Excavating respectfully declines to hold a public meeting.

Therefore, we are placing your request for a formal hearing on the January 27, 2011 agenda for the Missouri Land Reclamation Commission to consider. The Land Reclamation Commission at their meeting on Thursday January 27, 2011 at 10:00 a.m. will discuss the matter of the formal hearing request. The location will be at the Missouri Department of Natural Resources, Elm Street Office Complex, Bennett Spring and Roaring River Conference rooms, 1730 East Elm, Lower Level, Jefferson City, Missouri. A Web link to a map illustrating the location of this meeting is: <http://dnr.mo.gov/shared/elmstreet.htm>.

Upon arrival at the entrance please check in with the receptionist for directions to the meeting room. Please be advised that because of the number of people expected, parking at this location may be limited. There is a large parking area located behind the office buildings however, these spaces are utilized daily by employees of the Department. Therefore, please arrive early and, if at all possible, consider carpooling in order to maximize the use of available parking spaces.

The purpose of this agenda item before the Land Reclamation Commission will be to provide the Commission with basic information to make an informed decision about whether or not you have standing to be granted a hearing. Before a hearing can be granted, the person who has submitted the hearing request must demonstrate to the Land Reclamation Commission that there is a basis for a hearing. Please be prepared at that time to explain to the Commission why you feel your health, safety or livelihood will be unduly impaired by the issuance of the permit. If you are unable to attend the January 27, 2011 meeting, the Commission will consider your written request. They will then decide if you have the proper "standing", which is the criteria used to determine if a hearing should be held.



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The decision as to whether or not a formal hearing will be granted rests solely with the Land Reclamation Commission and will be decided at the scheduled January 27, 2011, meeting. The hearing will not be held on January 27, 2011.

To better understand the process, allow me to explain exactly what is meant by the term “hearing” under the law. This is not an informal or formal meeting that takes place to discuss the merits or drawbacks of the issuance of a particular permit to a mining company. Rather, it is a formal judicial proceeding that occurs before a hearing officer, who functions like a judge, in which all parties are generally represented by legal counsel. If a hearing is granted, the hearing will delay the issuance of the permit until the matter is heard by the hearing officer. It should be understood that if a hearing is granted, you must submit scientific evidence to support your claim in that hearing. The hearing officer then issues a recommendation to the Land Reclamation Commission for issuance or denial of the permit and the final decision then rests with the Commission.

I have discussed the criteria for determining standing above. It is defined in the regulations of the state of Missouri and may be found at 10 CSR 40-10.080 (2), which support “The Land Reclamation Act.” This Act contains the governing laws by which this agency and the industry, which it regulates, must abide.

I have prepared a recommendation concerning permit issuance or denial that is required by *The Land Reclamation Act* at 444.773.1 RSMo. Please find the recommendation and associated Attachment following this letter.

A link to “The Land Reclamation Act” is: <http://dnr.mo.gov/assistance/laws-regulations.htm>

The recommendation only advises the Land Reclamation Commission that the applicant has met all the technical requirements of *The Land Reclamation Act* in order to qualify for a permit, and that submitted comments have been considered. Please note that this recommendation is just the first step in the process of deciding whether to issue or deny the permit. While this recommendation will provide program staff responses of written comments as required by the “Act”, only the Land Reclamation Commission can act on your concerns. Their decision will be based mainly on what they hear from you at the January 27, 2011 meeting of the Commission, which is the second step in the process of deciding whether to issue or deny the permit. If a hearing is ordered after the Commission hears your concerns, that hearing will be held at some later date. Please note that you can also access the agenda and other documents included for this meeting by accessing the following web sites:

<http://www.dnr.mo.gov/env/lrp/commission/lrc.htm> and <http://dnr.mo.gov/env/fruitland.htm>

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If you have any questions concerning this matter you may call me at (573) 751-4041. Thank you very much for your interest in this matter and we look forward to your participation in the future.

Sincerely,

LAND RECLAMATION COMMISSION

Mike Larsen, R.G. *Original Signed by Mike Larsen*
Staff Director

ML:ct:tb

Enclosures: Staff Director's Notice of Recommendation and Attachment I



Jeremiah W. (Jay) Nixon, Governor

Sara Parker Pauley, Director

DEPARTMENT OF NATURAL RESOURCES

dnr.mo.gov

MEMORANDUM

DATE: January 11, 2011

TO: Land Reclamation Commission

FROM: Mike Larsen, R.G., Staff Director *Original Signed by Mike Larsen*
Land Reclamation Program

SUBJECT: Director's Recommendation – Strack Excavating, L.L.C., New Site #2, Expansion to Existing Permit #0832 - 76 acres; Cape Girardeau County

The following constitutes the Director's Recommendation based on a review of application completeness, consideration of written comments received and the required components of the recommendation.

Staff Director's Notice of Recommendation

The Land Reclamation Act at Section 444.773.3, RSMo, requires that the Staff Director make a formal recommendation to the commission regarding the issuance or denial of an applicant's permit. In addition, the "Act" at 444.773.1, RSMo, requires the Director to consider any written comments when making the notice of recommendation. After consideration of application completeness, it is my recommendation to the commission to issue the new site permit expansion for 76 acres at the Site #2 Quarry in Cape Girardeau County sought after by Strack Excavating L.L.C.

As the commissioners will understand in the attachment to this recommendation, there have been many issues raised. There are issues regarding the mining and operational plans of Strack Excavating LLC which are related to concerns about potential future impacts. Such future impacts cannot be measured today and some issues are of such complexity that no one person possesses the technical expertise to make a complete and thorough evaluation of the potential for such future impacts.

As Staff Director I have recommended approval of the pending mining permit application because the company has satisfied all of the application requirements of the "Land Reclamation Act". However, I would point out to the commission that this application has received some of the greatest amount of public input ever received by the program for a mining permit application.



Recycled Paper

After considering all of the written comments received I have come to the conclusion that this is, without question, an issue of extensive and extreme concern to thousands of citizens in the area of this proposed mining operation. Also, please note that "The Land Reclamation Act" at 444.762 RSMO states: "It is hereby declared to be the policy of this state to strike a balance between surface mining of minerals and reclamation of land (and) to protect and promote the health, safety and general welfare of the people of this state."

My recommendation for approving this new site permit expansion application is based on the fact that the applicant has satisfied the requirements for application completeness as required by both law and regulation. Furthermore, all comments received by the program have been considered and responded to in Attachment 1 to this recommendation which is being provided to the commission for their review.

The issue of whether or not to grant a formal hearing as requested by many petitioners opposed to this permit and the ultimate decision concerning permit issuance now rests with the Land Reclamation Commission.

Required Components of the Recommendation

The Land Reclamation Act requires that the director make a formal recommendation regarding the issuance or denial of an applicant's permit. Rules at 10CSR 40-10.040(2)(A) require that the Director's recommendation be based on several specific items as follows:

1. The application's compliance with section 444.772, RSMo (The Law);
2. The application's compliance with 10 CSR 40-10.020 (The Regulations);
3. Consideration of any written comments received;
4. Whether the operator has had a permit revoked or a bond forfeited; and
5. If a petition is filed and a hearing is held, the commission shall make the decision on permit issuance or denial.

Items 1 and 2: These are basically the same issue stating that the application must meet the criteria for application completeness in both the statutes and the rules. After staff review of the new site permit expansion application from Strack Excavating L.L.C., the staff determines that the application document has met the standards of both the statutes and the rules.

Item 3: For consideration of all written comments received, please refer to Attachment 1.

Item 4: The applicant has never had a permit revoked or a bond forfeited, in accordance with the full language of the rules at 10CSR 40-10.040(2)(A)4.

Item 5: There is record on file that approximately 575 persons are requesting that a hearing be held concerning the new permit application sought after by Strack Excavating L.L.C. Many

people also requested a public meeting and Strack Excavating L.L.C. respectively declined to hold a public meeting.

Summary Comments

As the commissioners will understand in the following pages (Attachment 1), there are a variety of concerns surrounding this proposed new site expansion permit application. The Land Reclamation Act addresses the issues of a request for a public meeting and requests for a hearing. The Missouri Department of Natural Resources does provide protection concerning issues of water and air pollution. The Department does not have any jurisdiction to address concerns related to blasting, mining in a developed residential area where local planning and zoning does not exist, property values, vehicular traffic or noise pollution concerns.

Acting on a mining permit in which petitioners object to the permit requires two separate actions. First, the law requires that the director provide a recommendation to the commission concerning the issuance of a permit. When making the recommendation the director must do two things: 1. Evaluate the application for technical adequacy and completeness and, 2. Consider all written comments received during the public comment period.

As stated in the first paragraph of this recommendation the application has been deemed adequate and complete by the program's staff. Written consideration to all comments received during the public notice period is being provided to the commission as an attachment to this recommendation for the commission's review.

As Staff Director I have recommended approval of the pending new permit expansion application, because, in fact, the applicant has satisfied all of the technical permit application requirements of "The Land Reclamation Act" and consideration has been given to all written comments received. This completes the first step of a two step process.

The Land Reclamation Commission must now decide if the evidentiary hearing requested by the petitioners opposed to the issuance of the permit is warranted. In this case, issues of concern received by petitioners opposing the permit did receive a written response to the concerns expressed in the Attachment to this memorandum, to the extent the program staff were able to respond.

All petitioners for a hearing have been advised, to the best of the program's ability to do so, of this recommendation along with information from the program explaining how to prepare for the Land Reclamation Commission meeting where they will have the opportunity to convince the commission through the submission to the commission of good faith evidence that they do, in fact, have standing as defined by the regulations in order for the commission to order that a hearing be granted. The regulations which define standing are found at 10 CSR 40-10.080(2) and read as follows:

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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, and livelihood must be within the authority of any environmental law or regulation administered by the Missouri Department of Natural Resources.

Only the Land Reclamation Commission can now decide on the hearing request and on whether or not the permit expansion should be issued.

ML:ct:tb

Attachment

Attachment 1

Consideration of and Response to Public Comments Received Regarding the Proposed New Site Permit Expansion Application, Strack Quarry, Site #2 for Strack Excavating LLC, Cape Girardeau County, Missouri

The Staff Director of the Missouri Department of Natural Resources, Land Reclamation Program received letters, emails and two petitions providing comments, requesting a public meeting, and requesting a hearing concerning the proposed Expansion permit application for a new site of the Strack Quarry Site #2 sought after by Strack Excavating, LLC. The full tally of signatures of persons opposed to the issuance of the permit was approximately 2,600. The names of people who requested a hearing are listed under the heading of Hearing Request.

All correspondence received by the program during the public notice period for this application has been posted on the Department's web site at <http://dnr.mo.gov/env/fruitland.htm> for all interested parties as well as the Missouri Land Reclamation Commission's information and review. The commission has been advised and informed of these letters, how and where to find them and have been periodically visiting the Department's web site specifically for the purpose of reading all letters posted.

These individual comments and concerns have been grouped together for efficiency of written response and for clarity of presentation to the commission in summary form. Listed below are the issues raised in the approximately 2,600 letters, emails and petition signatures received during the public comment period and the staff's responses in consideration of each comment or concern received.

Concern: "The potential to expand the Heartland proposed mine plan to both the east and the west of Saxony Lutheran High School and reach all the way to the Strack proposed mine plan is an additional basis for reviewing the Strack and Heartland applications in tandem and assessing the effects of the proposed permitted activities on Saxony students, faculty and staff comprehensively and in tandem."

Response: This concern is completely understandable however, the decision as to whether or not both applications should be considered "in tandem" or as separate, stand alone applications is a decision that only the Land Reclamation Commission can make. Throughout the statutes that comprise the "Land Reclamation Act", reference is made in many places to the singular form of the word "application." Therefore, each application should be considered on its own merits and not in combination with another, although geographically related, each application is from an entirely different and separate applicant.

Concern: "Based on the application materials, and despite the reclamation plan, the proposed bonding will not match the level of financial assurance required to reclaim the land."

Response: As specified by section 444.778.1 of “The Land Reclamation Act”, bonding of any permitted area under this law is set by statute at “...the penal sum of eight thousand dollars for each permit up to eight acres and five hundred dollars for each acre thereafter that is to be mined.” This is the requirement of current law. The program and/or the commission have no authority to require additional bonding at the time of initial permit application submittal.

Air Pollution/Dust Control

Summary of Concerns: In the letters received, there were many concerns about how the dust created by the quarry would negatively impact the area and especially the health of the students attending Saxony Lutheran High School.

Response: The generation of dust at limestone mining and processing operations comes from a variety of sources. Some of those sources involve stockpiles, crushing operations, on route traffic, and blasting. Missouri air quality laws do not tolerate visible dust emissions migrating off the property boundary. Dust must be contained within the property boundary of Strack Excavating operation, if the mining permit is issued. If dust is seen escaping the confines of the property boundary or if there are excessive amounts of dust noticed during normal operation then Strack Excavating, LLC will need to take immediate corrective actions. Our contact person for Strack Excavating is Mr. Jo Wayne Strack who may be contacted by telephone at (573) 335-9430 or in writing at 5120 State Highway 74, Cape Girardeau, Missouri 63701.

If Strack Excavating fails to take corrective actions concerning fugitive dust migrating onto adjacent properties, concerned parties should contact the Department’s Southeast Regional Office. If the department finds Strack Excavating is allowing dust to migrate onto adjacent properties, appropriate actions will be taken. To report a dust complaint contact the department’s Southeast Regional Office, 2155 North Westwood Blvd., Poplar Bluff, MO 63901 or by telephone at (573) 840-9750. It will prove best to ask to speak with someone in Air Pollution Control. Only the Department's air laws regulate dust generated at a mine site.

Asthma

Concern: At the request of a commission member, staff researched how many times the word "asthma" appears in letters received concerning Strack Excavating, LL.C. On December 28, 2010 a word search was performed on the Optical Character Reading scanned documents. A sample of sentences with the word "asthma" is listed below:

"I have trouble with dust, smoke, fog, and dirt in the air. These are transient pollutants. A persistent and consistent rock dust in the area does not sound like a good mix for me or for anyone living within any reasonable distance or commuting through Fruitland. My son has asthma-like allergies since he was very young. His daughter has the same trouble. Quarry dust would be an outrageous pollutant for them to drive through and would make it difficult to visit us."

"Some students have asthma and this could potentially send them to the hospital. We cannot take the health of our students lightly."

"As it relates to health, several of our residents have asthma and my research shows dust is extremely detrimental to children with this condition. This dust would pose a health risk for Saxony students as well."

"I have five grandchildren in school. One has asthma and all have allergies. Research shows that quarry dust is extremely detrimental to these conditions. The dust would pose a health risk not just to the students, but all people living in the area and those attending sports and other events at the schools."

"My wife has Asthma, which puts her at serious risk in this situation. Because I know that fugitive dust cannot be completely controlled in every situation, I have grave concerns about how her health will be affected. Currently her Asthma is under control, but any extra irritants in the air could seriously affect her future health and daily Quality of life. My home will be 30 feet from Stacks' proposed roadway in and out of his Quarry. Also my home will be less than a hundred feet from his proposed Quarry."

"As an allergy sufferer and with seasonal asthma, I also know the effect dust can have in making these symptoms worse."

"As it relates to health, several of our area students have asthma and my research shows that quarry dust is extremely detrimental to children with this condition. This dust would pose a health risk not just for Saxony students but Jackson R2 North Elementary, and numerous Day Cares also. I know that there are several adults/children in our neighborhood that have respiratory problems."

"My son has a sensitive health issue Asthma, that puts him at serious risk in this situation. Because I know that fugitive dust cannot be completely controlled in every situation, I have grave concerns about how his health will be affected. He currently uses several medications to control his disease, but any extra irritants in the air could seriously affect his future health and daily quality of life."

"I have a sensitive health issue (Chronic Sinusitis, Chronic Bronchitis and Asthma) that puts me at serious risk in this situation. Because I know that fugitive dust cannot be completely controlled in every situation, I have grave concerns about how my health will be affected. I currently use medications to control my disease, but any extra irritants in the air could seriously affect my future health and daily quality of life."

"As it relates to health, my 10 year old son has asthma and my research shows that quarry dust is extremely detrimental to children with this condition. This dust would pose a health risk not just for my son, but for all of the students in our area who come to school and participate in softball games, baseball games, soccer games and cross country meets, area wide play days, summer camps and more."

"Seventh, many students and teachers have allergies/asthma that would be aggravated by a quarry literally at their front and back door."

"I have a health issue of asthma. I believe the work of the quarry will produce dust in the surrounding air which will not be conducive to my visits to the campus."

"The effects upon the health of many of the students in these schools is bound to be great considering so many students these days have asthma as well as other respiratory conditions."

"First and foremost, to me personally, is the fact my youngest son is asthmatic. Ironically, he was admitted to the hospital in October due to a severe asthmatic episode."

Response: In comments received on or before December 28, 2010, the word "asthma" appears twenty-six (26) times. This is less than two percent (2%) of all the letters received for Strack Excavating, LLC.

Research conducted by Dr. John Kraemer, South East Missouri State University identifies that based on Cape Girardeau County population it is not unusual for about two-percent (2%) of the population to have asthmatic conditions:

Emergency Room: Residents of Cape Girardeau County						
Diagnosis: Asthma [128.]						
	Year					
	2007		2008		Total for Selection	
Age of Patient	Number of Visits	Rate	Number of Visits	Rate	Number of Visits	Rate
Under 15	65	4.9	54	4.0	119	4.5
15 to 24	32	2.2	28	1.9	60	2.1
25 to 44	45	2.7	49	3.0	94	2.8
45 to 64	17	0.9 @	13	0.7 @	30	0.8
65 and over	8	0.8 @	3	0.3 @	11	0.5 @
All ages	167	2.5	147	2.2	314	2.4
Rates Per 1,000						
Age Adjustment Uses 2000 Standard Population						
@ Rate considered unreliable, numerator less than 20						

Air Pollution

Concern: “In addition, Cape Girardeau County has been on the margin of being designated an ozone nonattainment county and the increased truck traffic will likely push the county over the ozone limit.”

Response: EPA is currently reviewing and revising the ozone standard. Until a final decision is made on the new standard, the department is unable to speculate on the designation of different areas and the impact truck traffic would have on the designation.

Noise Pollution

Summary of Concerns: In the letters, emails and petitions received, there were many concerns about how the noise created by the quarry would negatively impact the area.

Response: We understand that Strack Excavating, will generate a variety of noises and noise levels when they operate the quarry, if the permit application receives approval. If noise levels generated from the quarry operation become problematic we suggest that citizens voice that concern to Strack Excavating. Our contact person Strack Excavating is Mr. Jo Wayne Strack who may be contacted by telephone at (573) 335-9430 or in writing at 5120 State Highway 74, Cape Girardeau, Missouri 63701.

Another option is to contact the Mine Safety and Health Administration (MSHA) at their field office in Rolla by telephone at (573) 364-8282 or in writing at 901 Pine Street, Room 202, Rolla, Missouri 65401. Although MSHA only regulates a miner's safety and well being; most likely if people outside of the quarry area are experiencing problems with noise pollution from the mine site, it is possible that mineworkers are too.

There are no environmental provisions that allow the Missouri Department of Natural Resources to administer protection against noise pollution.

Traffic

Summary of Concerns: In the letters, emails and petitions received, there were many concerns about how increased traffic from the quarry would negatively impact the area and especially the students attending Saxony Lutheran High School.

Response: The Missouri Department of Natural Resources has no authority to regulate traffic on public roads in Missouri. It would be best to contact local authorities about nuisance traffic, damage to roads or safety issues from the mining operation if this permit is granted.

Blasting Related Issues

Summary of Concerns: In the letters received, there were many concerns about how the blasting activities at the quarry would negatively impact the area and the learning environment of the Saxony High School students.

Response: If a concerned person experiences damage to their property due to the operation of the proposed neighboring quarry then those individuals have every right to take civil litigation actions to formally resolve those issues.

Detonation of explosives always triggers ground vibrations at specific frequencies that do leave the blast area and resonate structures nearby. Blast vibrations can also be perceptible, but not necessarily damaging, in a home at great distances from a blast.

It may prove beneficial for concerned individuals to have a blasting survey taken of their house and/or other property if they live near a mine site. A blasting survey done before the initiation of a blasting program is of the most value, but a survey can be performed at any time. The blasting survey usually involves an independent party documenting all of the walls and other parts of the house or structure for cracks or the lack of cracks.

Another option to consider is having an independent blasting consultant set up a seismograph to monitor the vibrations a residence or another structure experiences. If the seismograph measures damaging ground movement at a damaging frequency, during the detonation of explosives, then there is better evidence that the damage caused to a residence is, in fact, related to blasting. A review of past blasting records or logs will also provide insights to how explosives have been used.

Although civil litigation is an option, we recommend that concerned individuals request the company to provide assistance with a blasting survey, seismograph monitoring or any damage claim, although we must emphasize that this would be strictly voluntary for the company. There are no environmental laws that would require the company to do so. Again, our contact person with Strack Excavating is Mr. Jo Wayne Strack who may be contacted by telephone at (573) 335-9430 or in writing at 5120 State Highway 74, Cape Girardeau, Missouri 63701.

We further suggest that Strack Excavating provide a blasting schedule to each person who lives or works within a half-mile from the point of explosive detonations. The blasting schedule should advise people of the typical times when explosives are detonated. Another precaution for Strack Excavating to consider is making people aware of a detonation with a warning siren, at least one minute prior to the detonation, that is audible for a half-mile distance from the point of detonation; although there is no environmental requirement for the company to do so. The Department of Natural Resources does not regulate blasting related activities at limestone quarries in any way as we have no jurisdiction to do so.

Flyrock is the undesirable throw of material from a blast. It is generally found to originate around the collar of the blast hole or the face of a blast and to have been caused by incorrect selection or application of burden, stemming length or by blast holes being initiated out of sequence. Flyrock can also result due to the structure of the rock. Fissures, joints and weakness planes are not necessarily the same from location to location even within the same blast area. When voids in the rock are present and the bore hole driller does not inform the blaster-in-charge of such voids, the explosives' power vents through a void and is capable of expelling debris for some distance. A good solid rock formation is less likely to produce a

chance of fly rock. If by chance, rocks are thrown onto property that neighbors the site, please do not hesitate to contact Strack Excavating to pick up rocks that might be thrown on to neighboring properties as a result of a blast from the mine site; although there is no environmental regulation for Strack Excavating to do so, it is simply a good neighbor policy. Again, our contact person is Mr. Jo Wayne Strack who may be contacted by telephone at (573) 335-9430 or in writing at 5120 State Highway 74, Cape Girardeau, Missouri 63701.

If flyrock were to cause damage to a neighbor's property it will prove beneficial to document the damage. We again encourage people to inform the company of any possible damage to see if they will take actions to resolve those concerns. We do encourage Strack Excavating to take corrective actions to alleviate the concerns of people if there is damaged property, although there is no environmental law for them to do so. The Mine Safety and Health Administration (MSHA) will also get involved if fly rock off of the mine property occurs.

Another option is to contact the Missouri Limestone Producers Association (MLPA). MLPA is a trade association that exists in part to help mediate problems that can occur among communities or residents and limestone mining operations. A phone number for the MLPA is (573) 635-0208 and we recommend that a concerned person speak with Mr. Steve Rudloff, Executive Director.

The Missouri Blasting Safety Act was enacted in 2007 and regulates various blasting and excavation activities. The act requires individuals who use explosives to have a blaster's license or be supervised by a person with a blaster's license, with some exceptions. The act directed the Division of Fire Safety State Fire Marshall's Office to create a blaster's licensing program and lays out qualifications for license applicants, which include completing an approved blaster's training course and passing a licensing examination. We encourage you to contact the Division of Fire Safety (573) 751-2930 to learn more about this law.

Water Quality/Quantity Issues

Concerns: In the letters received there were many concerns raised as to the protection of ground water wells, the impacts to Hubble Creek, livestock watering, and a request that a subsurface geologic study be performed. A sample of a few of the comments is provided.

"The proposed quarry site and surrounding area are part of a karst topography, as evidenced by sinkholes, a year-round spring within 600 feet of the quarry site, and a "losing stream" within 500 feet of the quarry site. There are many documented negative impacts of quarrying in a karst geological area on aquifer-supplied water sources, including ground water level lowering, flow alteration, and turbidity increases. According to Mr. James Vandyke, State Geologist with the Mo DNR, there have been no studies or testing done in this area which would assess the impact of quarrying on groundwater resources. As a user of the public water supply well system, I believe my family's health and the health and viability of the water supply is threatened by the quarry, and would expect that a hydrogeological study or environmental impacts study be undertaken to determine the potential risk and mitigation steps necessary to protect our water supply."

Response: Concerns about water wells becoming contaminated or a drop in the static ground water levels due to a nearby mining operation are understandable. Currently, the Missouri Department of Natural Resources does not regulate private water well issues, but there are steps that can be taken to determine whether or not a private water well is negatively impacted in the future. In order to document that there has been a change in the water quality of a private well there will first need to be a water quality analysis that provides baseline data. A baseline water sample should be from a concerned individual's well. If there is a detected change in the water quality another water quality sample should be taken. The baseline analysis is then used to compare future water analysis to see if there is a change in the water quality. If a future water sample identifies that there is a negative change from the baseline analysis then there is proof that the concerned individual's well water quality is affected (although this may not necessarily mean that the mining operation caused this change). If anyone elects to have their well water tested, we recommend that they use the services of a qualified individual who will follow accepted methods to sample the water and transport it to a laboratory for analysis. The Missouri Department of Health is responsible for testing water samples from privately owned wells. For assistance to sample a private well, contact the local County Department of Health office. People who use a private well may make a request to Strack Excavating to help with the cost of obtaining a water sample, although we must emphasize that this would be strictly voluntary for the company, there are no environmental laws that would require them to do so.

We have spoken with representatives of the Department's Water Protection Program to further understand what someone can do to protect their supply of water. From those conversations we learned that there are no laws in Missouri that provides protection for maintaining a viable groundwater supply to recharge a well. For more information concerning water wells, contact the department's Public Drinking Water Branch at (573) 751-5331.

Concerned individuals, and Strack Excavating, might be able to reach some type of an agreement for implementing a water quality monitoring plan. We recommend that concerned individuals discuss with the company a plan to complete this work and to pay the cost of a water monitoring plan. However we must emphasize that this would be strictly voluntary for the company. There are no environmental laws that would require the company to do so.

Mining and the Environment / Hubble Creek

Concerns:

"...plus the origin of Hubble Creek is located within a two mile radius of the proposed operation."

"There are two main feeder streams for Hubble creek running through the proposed quarry site. This creek runs along Hwy 61 into Jackson and through the city park. Children play in this creek and families picnic by the creek, schools take students on field trips to Hubble creek. Students look for and identify different types of leaves, plants, rocks, etc. Previous core drilling reports found a fault/dirty rock in this area. If the rock needs washing the excess water shed will flow into Hubble creek. How will this affect the natural habitat along this creek. How does the natural stream act apply to rock quarries?"

"I live about 1/4 mile (approx 1200 feet) from this proposed quarry and I believe Strack Excavating would be very detrimental for our area residences, the headwaters of Hubble Creek, air quality, and possible damage to our Public Water Supply District #1 Wells."

"Fourth, the proposed sites are near Hubble Creek, which runs through several Jackson parks and neighborhoods."

"And, as Hubble Creek runs through this area, what impact would a quarry have on this watershed and also its inhabitants?"

"As a member of the community, I have significant concerns about the proposed quarry's impact to the surrounding environment. As mentioned previously, there is an all-weather spring within 600 feet of the quarry site, on the south bank of the primary tributary into Hubble Creek in this area. This spring empties directly into that tributary at an approximate rate of 30 gph, and then into Hubble creek. The location and orientation of the spring would imply that it is fed from the south, directly from the location of the proposed quarry. Given the nature of Karst, a spring with a probable existing underground hydraulic connection to the quarry location, and the likelihood of additional rock fracturing from mining and blasting, I think it is necessary for the permitting entities and the public to understand how Mr. Strack would be able to insure that there wouldn't be undesired discharge from the mining operation off of his mining property and into Hubble Creek via this and any other similar springs. Wildlife also make use of this spring, as evidenced by fish in the pool created by the spring and deer and other wildlife observed around the periphery of the pool. Furthermore, Mr. Strack in his permit proposes a half-mile long impoundment berm with a holding pond to contain quarry waste and runoff from entering Hubble Creek, around the 1st proposed excavation area. This berm would border either Hubble Creek or its tributaries along its entire length. I am concerned about the integrity of such a structure, particularly as it is located immediately adjacent to the excavation and blasting area, and believe a spill into Hubble Creek would create a significant environmental hazard as well as ruin the natural state of the creek within and including its course through the Jackson City Park."

Response: Although permits from other agencies may be required at a mine site, the issuance of the Land Reclamation permit is not dependant on these other permits. The Land Reclamation Act does not require that an applicant secure all other necessary permits prior to the issuance of the Land Reclamation Permit. Many times the Land Reclamation Permit is acquired before other necessary permits.

Strip mining is a temporary harsh activity on the land affected by mining. We understand that strip mining does appear like environmental destruction. The strip mining process involves the clearing and grubbing of vegetation, removal of overlaying material to access the mineral commodity and blasting to fracture the rock mass. Due to the lack of environmental concern by some mine operators prior to 1970, there are now various safeguard requirements to protect the surrounding environment from a mining operation. Some of the safeguard requirements include keeping sediment from reaching a stream outside the mine area, keeping dust and other pollution from affecting areas outside the mined property and timely reclamation of land affected by mining. Laws enforced by the Missouri Department of Natural Resources require these environmental protection safeguards. The Land Reclamation Act requires that the affected land

be reclaimed to a land use of wildlife, agriculture, development or a water impoundment. The mine-plan for this site involves land uses/acres of: 21-acres for wildlife and 55-acres for a water impoundment. Wherever topsoil is replaced, vegetation will be established sufficient enough to control erosion. The Code of State Regulations at 10 CSR 40-10.050(5)(B)8., specifically exempts an operator from reducing a highwall if there is an inadequate amount of material for backfill.

Restoring mined land to a viable land use is what The Land Reclamation Act is all about. The Act's declaration is to strike a balance between surface mining of minerals and reclamation of land subjected to surface disturbance by mining, as contemporaneous as possible, and for the conservation of land, and thereby to preserve, and aid in the protection of wildlife and aquatic resources, to establish recreational, home and industrial sites, and to protect and promote the health, safety and general welfare of the people of this state. The act and reclamation plan proposed by Strack Excavating LLC, provides locomotion to return the mine site to a land use recognized by The Land Reclamation Act, if this permit is granted.

A certificate to mine limestone issued by the Missouri Land Reclamation Commission does not allow an operator to destroy the environment.

Water Line Easement

Concern: "His permit application misrepresents the current status of an easement on the land. The map included with the application indicates a water line easement along the north and east border of the property. A brief visit to the Cape County Recorder's Office provides proof that no recorded easement exists in that location, and that in fact the public water supply easement runs south along the west side of the property, then along the south side just south of the upper portion of the property, then directly *across the center of the property* just to the south of the first proposed excavation area. Whether Mr. Strack hasn't done the proper research, felt that something such as land use rights to be unimportant enough to represent properly on his application, or otherwise chose to misrepresent the current situation of that easement, is up to him to explain, but any of those reasons demonstrates either a lack of attention to detail or a disregard to disclose facts pertinent to the situation, behavior which calls into question his intent to ultimately adhere to either operating regulations or ultimately to his reclamation plan. "

Response: The Land Reclamation Program staff took this concern very seriously when we became aware of this when received on December 30, 2010. The map submitted by Strack Excavating with the permit application showed to us the water line easement running along the northern and eastern borders of the property. The Land Reclamation Program has coordinated this response with the Public Water Supply District #1 (PWSD#1) in this area. We have spoken with both the District Manager Supervisor and the attorney for PWSD #1 in order to obtain the latest information on this issue. They have informed the staff that Mr. Strack is working with them to relocate the water line easements currently located on the borders of and traversing through his property. The staff has been informed by the PWSD #1 that last summer, prior to Mr. Strack purchasing the property, he reached a solid agreement with the water board members that if he purchased the property the easements would be relocated from their current position to a position shown on Strack Excavating's permit detail map. In addition, we understand from our

conversations with PWSD #1 that Mr. Strack has agreed to reimburse the PWSD #1 for any additional costs this relocation of the easements would present.

Simply put, the map included with the permit application does not show the current locations of the water line easements but it does show where they will be located now that Mr. Strack has purchased the property. According to officials with PWSD #1 the surveys necessary to complete this relocation have been completed, Mr. Strack's engineering firm has been working with the engineers for the PWSD #1 and, to quote the attorney for the water board, "this relocation will happen. It just hasn't happened yet." As a point of note, there are no actual water lines in existence in any of the easement areas.

Here is correspondence received by the program from PWSD #1 with regard to this matter:

"Just a note to let you know that I am working on the location of the easements on the property that Strack Materials proposes to make into a quarry. I have printed a copy of the plat attached to your mail from yesterday. I will draw in the approximate locations of the various easements and then label them with the book & page or document number for the easement. I will then forward the plat to you via the postal service. For your information I was contacted by Mr. Strack a little over a month ago. During the call he told me that he is going to have the plat changed to reflect the water line easement being relocated from the placing that is currently in place to one that has the easement being adjacent to and parallel to the north property line of the tract and also the east property line of the tract. The relocation of the easement has necessitated the district resubmit to MoDNR for a new construction permit. I have talked with Mr Strack's engineering firm and exchanged phone numbers with them so they can contact the Water District's engineer to work out what is needed as far a mapping requirement for the new construction permit. I don't know if there has been any contact as of yet but it will happen. If upon receipt you have any questions give me a call."

Thanks.

Harold "PeeWee" Landgraf Jr

Request for Geologic Study

Concern: "I am also concerned about possible negative effects on the Public Water Supply in this area. Thousands of people including my family rely on this water supply daily. I want to urge you to complete the proper studies to determine how this rock quarry could affect our water supply considering the karst topography seen in the Fruitland area."

Response: Concerns about water wells becoming contaminated or a drop in the static ground water levels due to a nearby mining operation are understandable. Currently, the *The Land Reclamation Act* does not require applicants to perform geologic studies of areas surrounding a proposed mine site. Therefore, the applicant would have to voluntarily commission such a study. The Land Reclamation Program has no authority to force the applicant to do so.

Livestock Watering:

Concern: "We also have cattle and a water supply for them as well as ourselves."

Response: According to the Missouri Department of Conservation, "Many livestock producers use ponds or streams as a watering source. These watering sources seem to offer an adequate supply of fresh water, when in reality it may be costing you more, through lost production due to poor water quality. Fencing your pond and stream and providing an alternative watering source may reduce the negative impacts of poor water quality on your cattle while improving the stream and pond resource...."

Cost-share programs with the Department of Conservation can reimburse you up to 75% of the cost. Solar watering works with any other land management programs you might be interested in. Contact the Fisheries Division of the Missouri Department of Conservation for more information on solar systems or your local NRCS, Soil & Water Conservation District or University Extension Office for information on other land management programs.

The Conservation Department has a detailed booklet, "Watering Livestock With Solar Water Pumping Systems", with complete instructions and illustrations to build your own alternative watering system. To obtain a copy or learn more about other incentives available to you, contact your local fisheries biologist or private land conservationist.

(Source: <http://mdc.mo.gov/landwater-care/landowners-and-farmers/alternative-watering-sources>)

Property Devaluation

Summary of Concern: In the letters, emails and petitions received, there were many concerns about how the location of the quarry would negatively impact property values in the area.

Response: The concern involving property devaluation is a real issue among residents who live near a mining operation. The mere presence of a mining operation may potentially decrease property values during mining and cause concerns among prospective homebuyers. It is not always true that mining causes property devaluation. There are some instances where, in fact, the presence of a quarry did not affect the value of property.

Anyone has every right to seek restitution for damage that Strack Excavating, is responsible for. No one has the right to cause devaluation of someone else's property without proper reimbursement or settlement for those damages. This is based on laws governing property rights not laws that govern mining.

The Land Reclamation Act does not provide guidance for property devaluation that neighbors a mine site. Rather, the declaration of The Land Reclamation Act identifies the need to protect and perpetuate the taxable value of property while allowing for the responsible mining of mineral resources.

Impacts on Livelihood of Saxony Lutheran High School and Other Businesses

Summary of Concern: In the letters, emails and petitions received, there were many concerns about how the placement of the quarry would negatively impact the future livelihood of Saxony Lutheran High School and businesses in the area.

Response: Although there may be an impact on students' desire to attend Saxony Lutheran, should this permit be approved, there is not sufficient evidence at this time that the school's enrollment will be unduly impaired by the issuance of the proposed new quarry permit. There may also be concern of prospective or future students and their parents committing to attending Saxony Lutheran High School knowing that a quarry may be located nearby their school. However, at this time there is just not sufficient evidence to either support or refute the claim that attendance will decline.

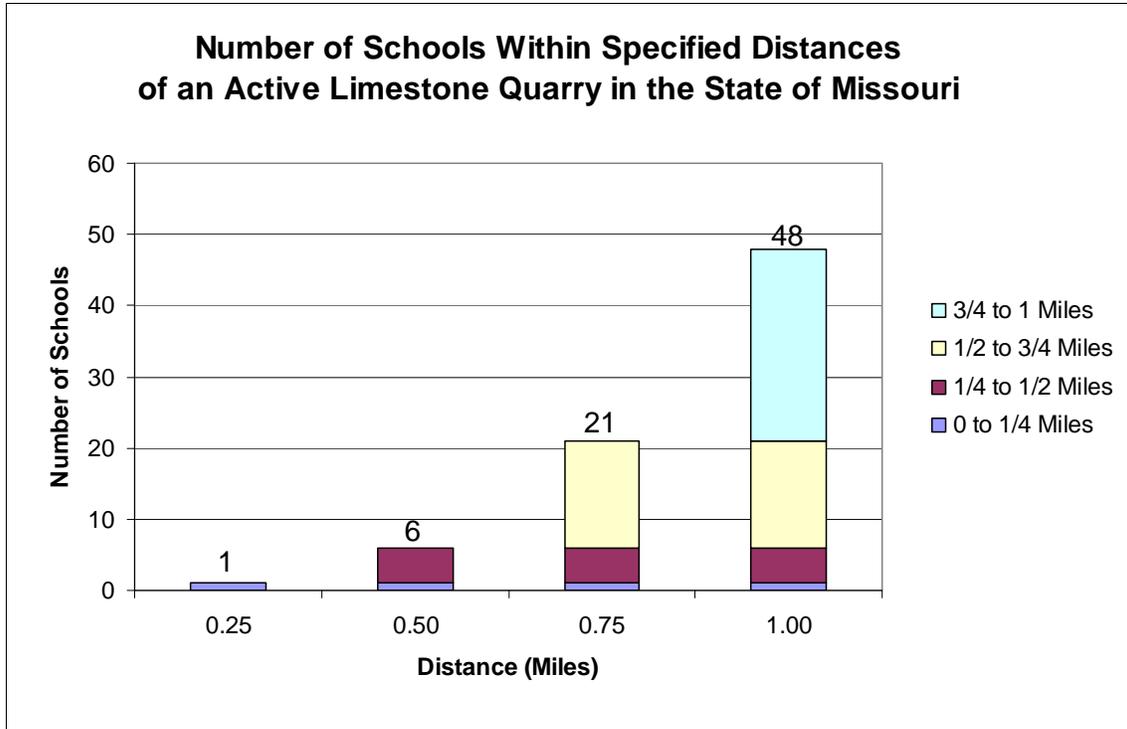
In consideration of and responding to this concern, the staff is simply not in any position to affirm or dismiss the possible impacts to the future well being and livelihood of Saxony Lutheran High School and its administrators or other employees at this time. Nor are we in any position to predict the impacts to other businesses in the area.

The staff has, however, performed some research in this area such as we were able to do so. We have reviewed the current locations of limestone quarries located near schools and we are providing the results of that cursory study for the commission's information below.

An analysis was performed using Geographic Information System (GIS) software to determine the number of schools within one mile of an active limestone quarry permitted by the Land Reclamation Program (LRP). The analysis included all private, public and higher education facilities located in the State of Missouri. Limestone quarries included in the analysis were only those that have currently active permits issued by the LRP.

There are 2,915 schools in the state, and of those, it was determined that there are a total of 48 schools located within one mile of an active limestone quarry. This is approximately 1.6% of all schools. Of those, one school is located within 0.25 miles, six are located within 0.50 miles, 21 are located within 0.75 miles and 48 are located within 1.0 miles (see Graph 1). Each of the 48 schools was contacted to ascertain if mining at the quarry was initiated before or after the school was established. It was determined that 36 schools were established before the quarry, 10 schools were established after the quarry and two were unknown.

During the contact made with each of the 48 schools, school administrators were questioned as to whether or not the school had experienced any issues related to mining at the quarry. There were seven schools that reported mine-related issues. Some of these include power surges or outages after blasting, vibrations due to blasting, minor dust issues and increased truck traffic. It was noted that the majority of blasting related issues were experienced after school hours.



Graph 1. Number of Schools within Specified Distances of an Active Limestone Quarry in the State of Missouri

Mining Laws

Comment: "Based on Missouri Statutes 444.610.1(1), "the commission shall not approve the application for a permit to conduct strip mining where such mining would endanger a residence, public building, school, church, cemetery, commercial or residential building, stream, lake, public road or other property".

Response: The cited statute is from the Strip Mining Law for coal mines in Missouri. This law does not apply to industrial mineral mine sites, such as the Strack Excavating LLC permit application.

Past Non-Compliance

Concern: "Strack and its associated companies have a history of noncompliance with environmental statutes and regulations."

Response: The Missouri Department of Natural Resources, Land Reclamation Program has not issued a Notice of Non-compliance to Strack Excavating or Strack's related companies. The department's Southeast Regional Office offers the following non-compliance information:

Facility ID 223-0037 (Lodi) - Site Survey Date 7-10-2008 No violations at this site to date.
 Facility ID 031-0124 (Fruitland) - Site Survey Date 8-3-2010 No violations at this site to date.

Facility ID 031-0104 (Cape Girardeau):

Ten years of operation, 2 NOV's (Notices of Violation), 2 LOW's (Letters of Warning)

- Site Survey Date 3-22-2001 completed by David Malorin. No violations
- **Notice of Violation # 3005 SE** issued by Jan Dunlap-Chronister 3-20-2003 for failure to submit Annual Compliance Certification by April 1, 2002 deadline.
- **Notice of Violation # 3104 SE** issued by Jan Dunlap-Chronister 3-23-2004 for: Failure to prevent visible emissions in ambient air beyond the property of origin; Failure to apply and/or obtain a operating permit as required by Construction Permit 062001-014; Failure to execute Performance Testing as required by 10 CSR 10-6.070, Subpart "OOO". Operating Permit obtained 6-25-2004, Subpart "OOO" testing accepted on June 15, 2004, Letter received 4-9-2004 stating an increase in water usage to prevent visible emissions from crossing property boundary.
- Site Survey completed 9-1-2004 for construction project. No violations observed.
- Inspection 2-1-2005 No violations observed.
- Inspection 12-21-2005 No violations observed.
- Inspection 9-21-2007 No violations observed.
- Environmental Assistance Visit completed 9-17-2008 Facility requested-new office manager
- Environmental Assistance Visit completed 10-23-2008 Facility requested new office manager
- **Letter of Warning** issued 8-20-2009 for quarry blast visible emissions in ambient air beyond premises of origin. Response received 9-15-2009 with explanation and preventative measures to mitigate the potential emissions.
- Inspection 3-25-2010 No violations observed.
- **Letter of Warning** issued 5-25-2010 for potential of fugitive emissions crossing the property boundary. Result of numerous complaints from Dalhousie residential area. Response letter received June 10, 2010.

Affects on Quality of Life

Comment: "This is quality of life changing and not appreciated. You would not seriously consider having a quarry come to your own neighborhood."

"This could seriously affect their future health and daily quality of life."

"We stand in unwavering support of Saxony Lutheran High School and the Fruitland community to oppose the proposed quarry operations, which threaten to diminish the quality of life and safety of those who have chosen to live and work in that beautiful locale."

Response: There is no doubt that having a quarry set up operations near a residence will create some discomfort to a persons quality of life when compared to not having a quarry neighboring a property. Public interest quite often relates to specific issues of air pollution, water pollution, discomfort to the quality of life, blasting, noise or travel way safety issues. Unfortunately, out of this list only dust and water pollution is enforceable by environmental regulations. The others are all issues important to society and they are all legitimate issues; however they are not environmental issues that are within the regulatory authority of the Missouri Land Reclamation Commission.

The current law requires that a person's health, safety or livelihood must be unduly impaired by the issuance of the permit before a hearing may be granted. We recommend that the petitioner be prepared to explain to the commission why he feels that his health, safety or livelihood will be unduly impaired by the issuance of this permit. The Missouri Land Reclamation Commission, not the program staff, will make a determination as to whether someone's health, safety or livelihood would be unduly impaired by the issuance of the permit certificate.

Deny the Permit

Concerns: "Please deny this application and permit our children and those with health problems to live in the healthy environment that God gave us."

"To this end, we stand in unwavering support of Saxony Lutheran High School and their opposition to the proposed quarry operations which threaten to surround the school."

Response: Respectfully, there are comments in the submitted letters requesting that the permit application be denied or not approved. The department's Land Reclamation Program cannot simply deny this permit application based on a citizen request. The permit application is in compliance with the provisions of The Land Reclamation Act, and an application that meets the standards and requirements of the "Act" must be recommended for approval.

Request for a Public Meeting

Summary of Concern: In the approximately 2,600 letters, emails and petitions received, there were many requests for a public meeting.

Response: On Friday, December 17, 2010 a letter was received from Strack Excavating LLC respectively declining to hold a public meeting.

Hearing Request

Summary of Concern: The following individuals wrote to the staff director to request a hearing: In the approximately 2,600 letters, emails and petitions received, approximately 575 requested that a hearing be granted by the Land Reclamation Commission.

Franklin D. Roth, Annette A. Roth, Gary & Geneva Brandes, Sharon Lee, Kevin Coe, Sheila Shelton, Mathew & Staci Wendel, Kenneth & Virginia Leimbach, Charles T. Hampton, Lynne S. Hampton, Bob Wagner, Louis Theiss, Robert A. Stell, Kristina Stell, Linda Bauwens, Sherri Rollet, James R. Schuessler, Terry Hadler, Helen Henderson, Justine M. Heberlie, Mike Heberlie, Velma Davis, Keith Smith, Carol Grantham, Dempsay Grantham, Brian Koenig, Grace E. Zahner, Earl B. Fritsche, Susan Fuytinek, Dale D. Koenig, Sandra Koenig, Dana Seibel, Brent Buerck, Matthew Lohmann, David A. Call, Mary M. Zoellner, Randy J. Leible, Paul J. Stueve, Mary Lohmann, Doris O. Petzoldt, Denise J. Steffens, Dean Kimmick, Sharon Bergman, William G. Jones, Paul W. Kasten, Paul W. Kasten, Cheryl Stueve, Matthew Mueller, Mildred Cearlock, Albert Cearlock, Randolph M. Mueller, Robert W. Hacker, Elmer H. Petzoldt, Patricia L. Callier, Kerby Hansen, Carolyn Schade, Barbara Rubach, Nora Kiefer, Stanley M. Roth, Roger Mueller, Michelle L. Hansen, Christie Steffens, Cindy Mueller, Selma Thole, Orville Schaefer, Eugene C. Dreyer, E. Carol Dreyer, Mildred McMath, Stephanie L. Roegner, Betsy Boettcher, Arleen Hansen, Stephanie Brown, Sherri Palmer, Nancy L. Wills, Betty Roth, Edgar Roth, Lorna Bergdolt, Arlene Lohmann, Rich Dreyer, Shannnon Mueller, Brad Mueller, Sharon J. Dees, Mark Weinkein, James A. Brown, Craig M. Brown, Allyn G. Steffens, Alice L. Hacker, Herman C. Wills, Lisa Pfeiffer, Douglas Pfeiffer, Melissa Fortner, Dianna Koenig, Phillip L. Norman, Arthur Tayon, David Mitchell, Irma L. Hoffstetter, La Donna Weber, Angie Hurt, Vera Sandler, Carole Brown, Carole Brown, Joyce Bova, Palmer E. Fritsche, Susanne Adelman, Susan Dickmann, Lois A. Fritsche, Richard Thoke, Phillip W. Mayhall, Joyce Balsmann, Betty J. Brune, Arleen Pfeiffer, Billie Jean Vogel, Craig Cambron, Connie Cambron, Kelly D. Carstens, Michelle Dreyer, Kurt D. Schoenherr, Regina L. Nuyt, W. D. Dougherty, Nancy Dougherty, Marilyn Mitchell, Darren H. Verseman, Stuart Prevallet, Shelley Prevallet, Chrissy Buerck, Pearl Petzoldt, Debbie Chappins, Laura Neislen, Amy Lohmann, Dorothy M. Wills, Janette L. Call, Ann Welken, Charlotte Krauss, Angie Schuessler, Gregory L. Yamnitz, Ron Wills, Richard P. Weber, Margaret Weber, Howard M. Krauss, Loretta M. Givens, Marylee Hoehn, Brandon Buerck, LeRoy E. Dreyer, Jill A. Wills, Amy M. Yamnitz, Jeff Bohnert, Alfred L. Dreyer, David Werner, Vernon Wills, Sally R. Werner, Kevin R. Gruenwald, Meredith Gruenwald, Wayne P. Kasten, Sherry S. Kasten, Della M. Dreyer, Betty Deardorff, Tillmon F. Petzoldt, Don E. Carter, Kenneth L. Weber, Jerry J. Brandt, Wanda Brandt, Michael Cornehlson, Matt Cates, Diane Cates, Ashley Otte, Brandy Neal, Bonnie L. Hudson, Dolores Petzoldt, Anna G. Hudson, Earline Leible, Sandra Schumer, Gilbert R. Cornehlson, Rhoda Cornehlson, Orreal Katt, Louaira Bock, Brenda L. Wichern, Debra S. Naeger, Dorothy L. Flentge, Connie L. Schuessler, Lyle Petzoldt, Lisa A. Buerck, Randy Behle, Betty Bohnert, Alan Schlichting, Lillian Bohnert, Harold Bohnert, Ruth V. Jordan, Janet Conrad, Lynn Hellman, Ruby F. Mueller, Marvin Mueller, Bonnie Smith, Rev. Matthew T. Marks, Tracey Schlichting, Sarah Borden, Steven L. Eggemeyer, Donna S. Brewer, James Enke, Rhonda K. Enke, Mary Rohde, Cletus Rohde, Gail Mueller, Kerry Mueller, Charles W. Schmidt, Donna C. Guemmer, Roger L. Conrad, Reinhold Mueller, Stanley Galeski, Susan Galeski, Merlin O. Kasten, Ruby Kasten, Patricia O. Huring, Ronald A. Huring, Toby Taylor, Melanie Taylor, Delfie Mueller, Angela R. Brewer, Tim M. Brewer, Anna Lexon, Jessica A. Feldmann, Daniel P. Weber, Faye Weber, Rosemary Dreyer, Doris M. Verseman, Nicole Koenig, Joseph L. Koenig, Raymond O. Bohnert,

Wayne Taylor, Carol A. Taylor, Thomas J. Buerck, Eunice Buerck, Nancy J. House, Bernard E. Sohlichting, Steve Hudson, Mike Kueker, Sherry Kueker, Stan Cook, Greg Griffith, Julie French, Donna Phillips, Elbert A. Hadler, Nancy Reisenbichler, Connie Courtois, Benjamin Courtois, Ronald J. Courtois, Janet R. Hadler, Martha J. Haertling, Janice Geile, Viola Schilli, Michelle Petzoldt, Gilbert Bock, Jr., Cindy Cissell, Donna Bock, Daniel Geile, Albert Schubert, Kristen Gruenwald, Linda Ruessler, Beverly Buerck, Judith K. Bohnert, Charles Berry, Colleen F. Burroughs, Kenneth Burroughs, Rachel Deckerd, Larry Dreyer, Patricia S. Wichern, Robert L. Wichern, Karen Schweiss, Brad Schweiss, Julia L. Abernathy, Shirley M. Webb, Rose Weber, Sharon Rodewald, Barbara A. Wibbenmeyer, Sharon Ehlers, Beth A. Anderson, Tammy S. Sparkman, Earl Koenig, Norma Koenig, Arleen Schlichting, Matt Wendel, Ray & Julie Meyer, Gary & Diane Laurentius, Peggy Lorenz, Jessica Wyatt, Dean & Jill Adelmund, Suzanne Vaughn, Meta Petzoldt, Fred Younghouse, Judy Diebold, Jean Ann Pierce, Peggy Scholl, Charles Willinbring, Michael & Mary Kay Hecht, Harold & Jeanine Hager, Lee Haupt, Kenneth Moore, Joyce Horky, Lillian Vogel, Ray & Julie Meyer, Kenyon & Mary Reisinbechler, Kathy Schlichting, Anthony G. Sample, Wayne, Mary & Amanda Koenig, Euline & Norma Koenig, Verna Koenig, Gerry Koenig, Paul Koenig, Frank Bowles, Eric & Thresa Borgfield, Robert Wilson, Harlan Perr, Melvin & Doris Schmidt, Melody Hamm, Shannon Mueller, Amelia Mansfield, Reid & Priscilla Mabuice, Richard Schmidt, Lavanda Perr, Pat Petzoldt, Ruby Eickhorn, Kenneth Volkerding, Lisa Kaempfe, Rebecca Volkerding, Rev. Roger Abernathy, Karla Avers, Marvin & Aileen Petzoldt, Katie Duvall, Stacey Versemann, Brent Versemann, Oleen Saffell, Connie Burroughs, Kristen Perr, Pat Tanz, Arlan Steffens, Don & Carol Hemmann, Alice Birk, Earl & Delores Hacker, Mark & Jennifer Roth, Eunice Roth, Brad Mueller, Wm. Paul Kaempfe, Travis Perr, Elaine Kaempfe, Jayne Tiehes, Kara Versemann, Timothy Dreyer, Willard & Glenda Hadler, Lillian Weber, Pamela Kluesner, Dale & Betty Brown, Jason Hamm, Leo Steffens, Brian & Michelle Mueller, Dan & Kathy Schoenherr, Mr. & Mrs. Dillman Starzinger, Jim Whaley, Brad & Paula Beal, Leon Laurentius, Jessica Reisenbichler, Helen Laurentius, Mr. & Mrs. Vernon Steffens, Nelson Roth, Kimberly Perr, Daniel Makins, Henry & Katrina Voelker, Rhonda Starzinger, Stan Petzoldt, John Renne, Charles Hughes, Ilmer Burroughs, Karen Schmidt, Daniel Steffens, William & Gail Linamen, Rita Whaley, Glenn Birk, Ruth Ann Boxdorfer, Mary Renne, Laura Klinkhardt, Linda Holt, Mark Kaempfe, S. Lueders, Roger Versemann, Wayne & Marilyn Steffens, Renee Kaempfe, Kristine Coe, Daniel & Darlene Kiefer, Don Mueller, Rick Tiehes, Gary Klinkhardt, Lori Steffens, Alan Versemann, Karla Versemann, Robert Birk, Amy Birk, Bill Holt, Cletus & Ruby Steffens, Linda Dreyer, Mahela Lueders, Gary Messmer, William & Lydia Bohnert, Margaret Makins, Dennis & Diane Leimbach, Geroid Lix, Anna Culbertson, Jody R. Geiser, Linda Verseman, Delores Eifert, Davis Charles Eifert, Mrs. Idalia Abernathy, Kenneth Steffens, Kenneth Abernathy, Rich & Kathy Steffens, Dr. Craig Ernstmeyer, Wanda Steffens, Maurice Lange, Kelly Johnson, Morris Owens, Donald and Carolyn Cannon, David Hunt, Dan & Rahe Wise, Earl Hacker President PWSD #1, Robert Leible Board Member PWSD #1, Bruce Lorenz Board Member PWSD #1, Darren Bell Board Member PWSD #1, Judith Owens, Robert Schlichting, Rich & Kathy Steffens, Janine Pfanstiel, Lynne Cairns, Richard Cairns, Grace M. Albrecht, Kathy Harris, Clay Roth, Dan Roth, Sandy Roth, Brad H. Weber, Rita A. Weber, Donald Palisch, Linda Palisch, Dorene Grebing, Bruce & Kim King, Scott Engert, Margie Engert, Linda & Bruce Engert, Patricia L. Callier, Lovaira Bock, Stan & Shirley Popp, Joe & Ramona Nenninger, Paul & Carolyn Bollinger, Ron Wahlers, Kathy Schlichting, Robert Schlichting, Gayla Ressel, Michael & Kimberley Pohlman, Pamela Dooley, Eric Ressel, Frances

Reid, Karen Sutterer, Julie Hughes, Joe & Jane Kurre, Timothy Sutterer, Virginia Wahlers, Dennis Stowers, Bradley & Patricia Schwab, Lacey Hemman, Doug Hemann, Aimee Stowers, Todd Petzoldt, Rachel Leadbetter, Indi Braden, Tamera Petzoldt, Mr. & Mrs. Dillman Starzinger, Kathy Heise, Laurie Heise, Harold Kent & Rebecca Witherby, Charles Wayne Heise, Lynn Winter, Paul Horn, David Shorr, Donna Pry, J. D. Lochmann, Michael & Patricia Kirn, Tommy Petzoldt, Tyson & Carrie Wunderlich, Lauri Spain, Kim R. Moore, Rev. Ken Olson, Mathew Olson, Paulette Olson, David & Stacy James, Bonnie Hemman, Dale Steffens, Norvald & Nancy Reppen, Helen Steffens, Wendell Mueller, Adam Steffens, Carol Steffens, Kim Mueller, Matt Kiefner, Paige Kiefner, Karla Kiefner, Bill & Betty Heisserer, Richard & Carol Dippold, Rep. Scott Lipke & Gary Steffens, Sanda Fluegge, Larry Fluegge, Elsie & Ramond Siebert, Dorothy Seabaugh, Jerry Lewis, Marjorie Suedekum, Linzel Fulton, Ruth Kasten, Don & Sue Hellwege, Marlene Roth, Gloria Kaiser, Virgil & Barbara Theiss, Frank Zieba, Marie Lange, Dale Kester, Ruth Edwards, Charles Vaughn, Anna Hickam, Ronald Lessmann, Helen Meyer, Patricia Lessmann, Archie & Mae Sue Sprengel, Eileen Tripp, Jeffery UN, Rita Kester, Bill Shrum, Nancy Kester, Mable Shrum, Edwin & Barbara Smith, Rev. Loren Boettcher, Joyce Jansen, Norma Boettcher, Leon Ainsworth, Allene Ainsworth, Max Weiser, Rick & Judy Weiser, John & Jane Kenner, Christopher Roth, Betty M. Roth, John Muench, Martha Muench, Beverly Lewis, Lori Zieba, Donald Hopper, Carolyn Hopper, Archie & Mae Sue Sprengel, Gary Kester, Martin Roth, Harry Bertrand, Dorothy Bertrand, Jerry Kasten and Kathy McCaun.

Response: We are placing the request for a hearing on the Missouri Land Reclamation Commission's January 27th, 2011 agenda. The decision as to whether or not a formal hearing will be granted rests solely with the Missouri Land Reclamation Commission. In order for the commission to grant a formal hearing, the petitioners must first establish standing. The petitioners are said to have standing if the petitioners provide 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 and livelihood must be within the authority of any environmental law or regulation administered by the Missouri Department of Natural Resources.

The request for hearing will be presented to the Land Reclamation Commission on January 27, 2011 at 10:00 AM. The location will be at the Missouri Department of Natural Resources, Elm Street Office Complex, Bennet Springs and Roaring River Conference rooms, 1730 East Elm, Lower Level, Jefferson City, Missouri. If the Commission grants the requests for a hearing, the actual hearing will be scheduled at a later date. It should be understood that if a hearing is granted, the burden of proof shall be on the applicant for the permit. If the Commission finds, based on competent and substantial scientific evidence on the record of the hearing, that an interested party's health, safety or livelihood will be unduly impaired by the issuance of that permit, the Commission may deny such permit.