



**Missouri Department of Natural Resources
Missouri Geological Survey
Land Reclamation Program**

Attachment I

Consideration of and Responses to Public Comments Received Regarding the Proposed Warsaw Quarry Transfer Consisting of 355 Acres for Capital Materials, LLC, Permit 1137, Benton County

Informal Public Meeting Held August 09, 2016, at 6:00 p.m.

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Introduction

On June 1, 2016, Capital Materials, LLC submitted to the Missouri Department of Natural Resources' (department) Missouri Geological Survey's Land Reclamation Program (LRP) a permit application for a transfer, which included the Warsaw (South) Quarry, a 355-acre limestone operation. The application was deemed complete on June 8, 2016, and required the company to begin the public notification process. Public notices were published in the *Benton County Enterprise* newspaper on June 16, 23, 30, and July 7, 2016, which circulates in Benton County. Certified mail was sent to the Benton County Commission as well as the first tier of landowners within one-half mile that are adjacent to the mine plan boundary. During the public notice comment period two (2) letters requesting a public meeting were received by the department's Land Reclamation Program director. Capital Materials, LLC held an informal public meeting August 9, 2016, starting at 6:00 p.m., at Parkfield Inn in Warsaw, Mo. Ten (10) citizens signed in at the public meeting.

Background

Warsaw (South) Quarry is a pre-existing quarry site located south of Warsaw, Mo. in Benton County on Hilty Ave. The quarry has been operational since the 1970s. In 2011, Hilty Quarries, Inc. applied for and was issued a permit expansion to the Warsaw Quarry. The permit expansion increased the mine plan acreage from 30 to 355. Capital Materials, LLC submitted a permit application to transfer the site from Hilty Quarries, Inc., due to a business acquisition. The site is currently permitted for 87 acres with a mine plan boundary of 355 acres. See [Figure 1](#) below.

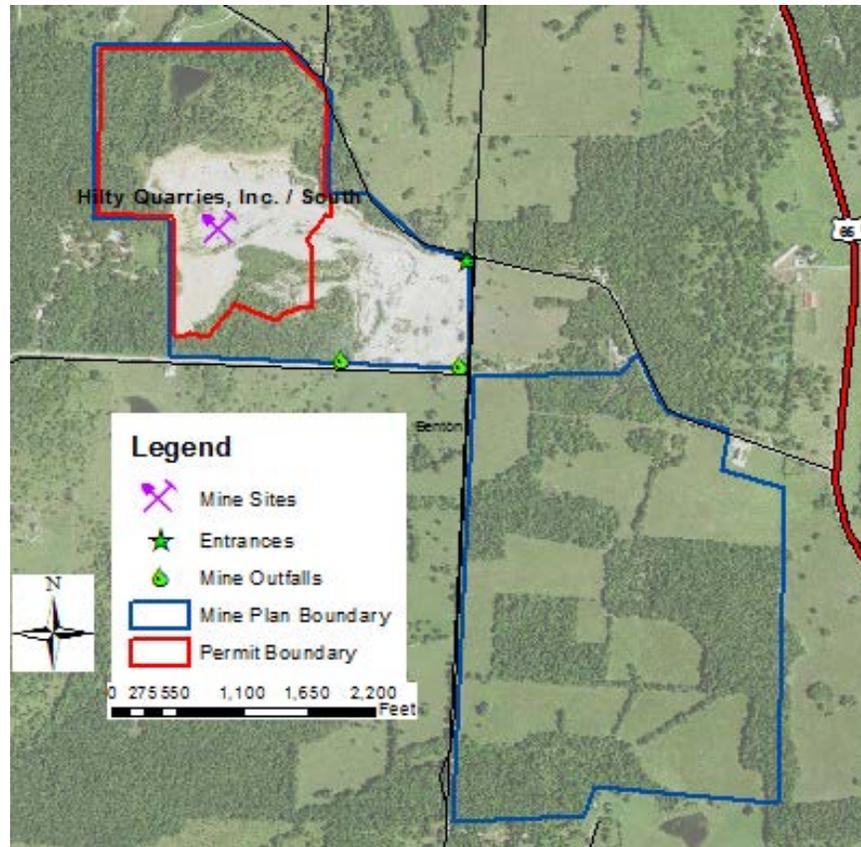


Figure 1: Warsaw (South) Quarry: 87 Permitted Acres, 355 Mine Plan Acres, Benton County, T39N, R22W, S03and 04

Opening Remarks at Meeting

Mr. Chris Thiltgen, Environmental Manager of Capital Materials, LLC, started the meeting with a brief opening statement and requested everyone in attendance introduce themselves. Members present from Capital Materials, LLC included Chris Thiltgen, Stephen Lehman, and Stephen Meyers. Three (3) representatives from the department were present: Carey Bridges, R.G., Interim LRP Staff Director; Bill Zeaman, Unit Chief, LRP Industrial and Metallic Minerals Mining Unit; and Ashley Harrison, Environmental Specialist, LRP Industrial and Metallic Minerals Mining Unit. Nine (9) citizens introduced themselves and stated where they live or own property, and some concerns were raised. The meeting was opened for questions and comments.

Handouts provided by the department consisted of a copy of the application, the mine plan form, and a map. The department also provided a contact sheet, mining regulations, and asked citizens to sign in on the form provided.

Summarized Concerns or Statements with Responses

Comments and concerns are summarized and grouped together for efficiency of written responses and for clarity of presentation. Listed below are the issues raised during the public notice comment period, public meeting, and responses in consideration of comments or concerns received.

Subject #1: Blasting

Concerns: *There were several comments about fly rock with a previous operator of the quarry. Some of the fly rock from the blasts left quarry property and went on neighbors' fields. What does the proximity of blasts do to homes and in particular to basement walls? There was a concern about the shock waves from blasts. One individual has a seismograph on his property and wanted to know who reads the seismograph.*

Response: Concerns about blasts being so powerful that it creates fly rock, which leaves the site (a safety issue) need to be reported to Mine Safety and Health Administration (MSHA) at 573-364-8282.

In 2007, the Missouri Blasting Safety Act was enacted to regulate blasting and excavation activities. Under this act all individuals who use explosives are required to have a blaster's license or be supervised by a person with a blaster's license, with some exceptions. The Division of Fire Safety State Fire Marshall's office has a licensing program and establishes qualifications that applicants must obtain prior to conducting blasts. The state sets limits for blasts. When a licensed individual conducts a blast, they are monitored to ensure compliance. Blasts suspected of a violation of the Blasting Safety Act will be investigated by the Division of Fire Safety. Individuals concerned about the potential for blasts to damage basements may request a pre-blast survey, which may be done at any time. For the seismograph that is currently on adjacent property, Capital Materials stated the seismograph was read by a third party, not the mining operation or the company conducting the blasts. Concerns about blasts should be directed to the Division of Fire Safety at 573-751-2930.

Concern: *The previous company would call before blasts were set in order to clear the nearby camp.*

Response: Capital Materials stated they will call prior to detonating blasts.

Subject #2: Water

Concerns: *General concerns were raised about the depth of the mine and the possibility of the mining operation going so deep it would affect the water table. Also, concerns were expressed about pollutants that reside in the quarry pit leaching into the water table.*

Response: Capital Materials responded to this concern stating they would not feasibly be able to operate in the quarry at a depth that would affect the water table. In general, a cost is associated when quarries pump significant amounts of water out of a pit. Mining deep enough that the water table is affected would ensure the company always would have to pump water out of the pit. Mining companies typically avoid this practice. The surrounding limestone formation within the quarry will act as a natural filter for any water that is directly absorbed into the groundwater and is not pumped out of the pit to a designated water outfall discharge point. As part of monitoring requirements set by the department's Water Pollution Control Branch (WPCB) Stormwater Pollution Prevention Plan, oil and grease are monitored and have limitations for the final effluent. Capital Materials stated there should be no

contaminants that would leach into the water table from the quarry pit as the particle sizes are too big to penetrate.

Concerns: *Where will water go if company does pump the pit out? Are there regulations for water that discharges from the quarry? One couple had lost property (cattle) from a previous operator due to the water discharged from the quarry.*

Response: Two (2) monitored outfalls at the Warsaw Quarry have permits from the department's WPCB to operate. Four (4) effluent limitations and monitoring requirements set by WPCB include: flow for monitoring requirement, settleable solids, oil and grease, and pH. When water is discharged from the quarry, it must be sampled to ensure the water meets the benchmark requirements set by WPCB. The allowable pH of water that discharges onto adjacent property must be between 6.5-9.0 pH units.

Questions about regulations for the discharge of water from the quarry may be addressed by the department's Water Pollution Control Program at 573-751-1300.

Concern: *One person has a well, which on different occasions has had trash or grass clippings in the well.*

Response: Capital Materials responded that they believe the grout failed in the well if grass clippings were found, which would not be something from the quarry.

Concerns about water well issues may be addressed by staff with the department's Wellhead Protection Section, Geological Survey Program, Missouri Geological Survey, at 573-368-2100.

Subject #3: Operation Concerns

Concerns: *Are there plans for the company to expand and take additional land from the surrounding landowners? What are the plans for the quarry progression? This also was in regard to rock quality.*

Response: Capital Materials responded by stating they presently have no plans to expand or to take additional land as it will take a significant amount of years to complete current mining of the rock in the northern portion of the mine plan. Capital Materials stated the current plan for the quarry is to mine deeper to have 50-foot ledges instead of shorter ledges, and then to start mining in the eastern direction.

Concern: *Capital Materials is a large corporation that does not care or is concerned about the landowners surrounding the quarry.*

Response: Capital Materials responded that they are a progressive company and want to make things better and work with landowners. Capital Materials also provided a brief history about the family-owned company and how it has expanded over the years. Capital Materials will reclaim the affected mined land in tandem with mining in a different direction. They will not wait to reclaim everything at the end when there is no money coming in from the quarry. They also have a drone aircraft, which is used to take aerial photos of the operation to assist

with monitoring the work and helps identify potential problem areas. Capital Materials asked the public to contact them with any concerns at 573-644-2982.

Concern: *Is the company going to mine the 209 acres on the south?*

Response: Capital Materials responded by stating that a decision had not been made at the time and would be determined later. Capital Materials stated someone presently has a lease agreement to have cattle on southern 209 acres.

Concern: *Responsibility of the company for unmarked containers left around the property, and the fact they could contain pollutants.*

Response: Capital Materials stated that it is a safety concern to have unmarked containers on-site that potentially contain pollutants.

MSHA inspects quarries at routine times to ensure safety compliance. Inspections include housekeeping issues, such as unmarked containers. If there are concerns with safety at the mine, do not hesitate to contact Capital Materials at 573-644-2982, Missouri Limestone Producers Association (MLPA) at 573-635-0208, or MSHA at 573-364-8282.

Subject #4: Land Reclamation

Concern: *What is the required setback for a quarry from neighboring properties? Previous operators have been too close to property lines and fences.*

Response: The mining operator must maintain a minimum distance of 50 feet from the adjacent property owner. If mining is conducted at the minimum distance, a barrier or berm of adequate height shall be placed or constructed along the perimeter of the excavation. The ground is required to be sloped for reclamation and by law to be traversable by farm machinery. In many cases, the sloping requirement increases the distance the mining operator can impact next to the adjacent property owner to more than 50 feet to ensure an adequate distance for reclamation work to take place.

Concern: *The public notice was published stating the mine would be in operation for 100 years. If new laws are passed, does this exempt the mining operator from having to abide by the new laws due to signing a 100-year mine plan?*

Response: There is no time limitation set by law for how long a quarry may be operational. If or when new laws are passed, a 100-year mine plan does not exempt the mining operator from having to abide by the new laws, which may be more or less restrictive on the operation.

Subject #5: Road, Truck Traffic

Concerns: *Who should a complaint be sent to for roads needing maintenance or replacement? Need better, wider roads. The weight of trucks tears up the roads. Can the quarry owner help with maintenance of roads, or work with the county in some regard?*

Response: The department has no authority to regulate traffic on public roads in Missouri. Benton County has jurisdiction over the county maintained roads. Concerns about road maintenance and replacement need to be addressed to the Benton County Commissioners.

Contact information is online at: <http://www.bentoncomo.com/offices/commissioners.html>. Capital Materials stated they do not allow truck drivers to leave the quarry with trucks that are overloaded, because it is a liability to the mining operator if that truck is involved in an accident. Additional concerns about truck traffic may be addressed by either the Benton County Sheriff at 660-438-6135 or the Missouri State Highway Patrol, Troop A at 816-622-0800. Capital Materials stated they are not opposed to working with the county in regard to the pricing of material for maintaining the road to the quarry.

Subject #6: Property Values

Concern: *A brief statement was made about property values and a claim made that the quarry is impacting the value of property.*

Response: The Land Reclamation Act does not supersede laws governing property rights, values or taxes. The Land Reclamation Act does identify that a balance between mining of minerals and reclamation of land must be met, which includes "... to protect and perpetuate the taxable value of property..." (RSMo 444.762). Concerns about property values may be addressed by the Benton County Assessor's office at 660-438-5323.

Subject #7: Air Pollution

Concern: *General concerns about dust issues were voiced, and a statement was made that trees were covered so thick by dust they were white. Dust leaves the site.*

Response: The generation of dust at a limestone mining and processing operation can come from a variety of sources. Some sources include stockpiles, crushing operations, en route traffic and blasting. The department's Air Pollution Control Program implements and enforces laws and regulations concerning air quality, which do not tolerate visible dust emissions migrating off the property boundary. Dust must be contained within the property boundary of Capital Materials operation if the mining transfer permit is issued. If dust is seen escaping the confines of the property boundary or if excessive amounts of dust are observed during normal operation, Capital Materials must take immediate corrective action. Capital Materials stated that the site is currently operational and crushing. To eliminate fugitive dust, a water truck is driving the site and watering as needed, and the crushing equipment is equipped with a dust suppression system. Capital Materials stated when the site is not crushing, only one company representative is present to operate the scale house, load trucks, and operate the water truck. Concerns about dust control should be directed to the department's Kansas City Regional Office at 816-251-0700. Specifically ask for the Air Pollution Control Program.

Closing

The public appeared to be satisfied with the responses that Capital Materials, LLC provided in response to their concerns and questions. General good humor among the citizens at the end of the meeting prevailed during a discussion about the types of rocks and geology in the surrounding area. Chris Thiltgen requested anyone who may be experiencing an adverse condition as a result of the mining operation should contact him at 573-644-2982. If the company personnel do not adequately resolve the concern, contact the Missouri Department of Natural

Resources, Land Reclamation Program at 573-751-4041. Bill Zeaman wrapped up the meeting by providing information about the next step in the process.

The director of the Land Reclamation Program has six (6) weeks from the date of this public meeting to investigate the application and make a decision to either issue or deny the permit transfer. Public comments will be considered when making this decision. Any interested party whose health, safety or livelihood will be unduly impaired by the decision will have an opportunity to appeal the decision to the Administration Hearing Commission. If the director denies this permit transfer, Capital Materials, LLC may appeal the decision. If the director issues the permit transfer, affected parties may appeal the decision. All appeals must be filed by petition within thirty (30) days after the director's decision, as provided by 621.250.3 RSMo. All appeals must be filed by petition and mailed to this address: Administration Hearing Commission, PO Box 1557, Jefferson City, MO 65102.