

**MISSOURI DEPARTMENT OF NATURAL RESOURCES LAND  
RECLAMATION COMMISSION**

<b>In the Matter of:</b>	)	
	)	
<b>HEARTLAND MATERIALS LLC.</b>	)	<b>Proceeding Under</b>
<b>Permit # 1072</b>	)	<b>The Land Reclamation Act,</b>
<b>Proposed Limestone Quarry</b>	)	<b>Sections 444.760 – 444.789,</b>
<b>RSMo. Cape Girardeau County, Missouri,</b>	)	
	)	
<b>SAXONY LUTHERAN HIGH SCHOOL,</b>	)	
<i>Petitioner,</i>	)	
	)	
<b>SAVE OUR CHILDREN’S HEALTH, INC)</b>	)	<b>Permit #1072</b>
<i>Petitioner,</i>	)	
	)	
<b>v.</b>	)	
	)	
<b>DEPT. OF NATURAL RESOURCES,</b>	)	
<b>KEVIN MOHAMMADI</b>	)	
	)	
<b>Staff Director,</b>	)	
<b>Land Reclamation Program,</b>	)	
<b>Division of Environmental Quality,</b>	)	
<i>Respondent,</i>	)	
	)	
	)	
<b>HEARTLAND MATERIALS, LLC,</b>	)	
<i>Applicant,</i>	)	

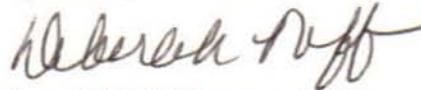
**RECOMMENDATION TO DENY PETITIONERS’ AND  
APPLICANT’S REQUEST TO INCORPORATE THE SETTLEMENT  
AGREEMENT AND DISMISS THE SUBJECT APPEAL**

It is the recommendation of the below signed hearing officer that the Petitioners’ and Applicant’s Joint Motion To Dismiss the Subject Appeal be denied in so far as it requests the Land Reclamation Commission to “enter an Order incorporating the Settlement Agreement and dismissing the subject appeal.” The Petitioners do not need permission from the Land Reclamation Commission to dismiss the formal public hearing to be held in this matter pursuant to *Saxony Lutheran High School Inc., and Save Our Children’s Health, Inc. v. Missouri Land Reclamation Commission and Heartland Materials, LLC*, Mo. App. WD74994, consolidated with WD75017, opinion filed January 15, 2013, as there has been no taking of evidence.

It is further the recommendation of the below signed hearing officer that the Land Reclamation Commission not issue an order incorporating the Settlement Agreement. Petitioners have informally indicated by email, and Applicant has indicated by pleading that the Settlement Agreement does not amend Applicant's mining permit. A settlement between the parties that does not amend the mining permit does not require the approval of the Land Reclamation Commission.

If the Petitioners and Applicant still desire to dismiss the evidentiary hearing in this matter, then they have the right to do so and should so inform undersigned hearing officer on or before August 20, 2013.

**Respectfully submitted.**



**Deborah Neff, Hearing Officer**  
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**Certification of Service**

I hereby certify that I, the Hearing Officer in this matter, have sent a copy of this Order to the Attorneys of Record for each party by email attachment on this 13<sup>th</sup> day of August, 2013:

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Deborah Neff