

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

www.dnr.mo.gov

JUN 15 2011

Mr. Danny Dumey
Heartland Materials, LLC
P.O. Box 558
Benton, MO 63730

Cape Girardeau County
2010-702/CES002640
Nationwide Permit 44

RE: Construct Heartland Quarry, Open Pit Mine on 161 Acre Tract of Land, Unnamed Tributary to Hubble Creek in Section 29, Township 32 North, Range 13 East in Cape Girardeau County

Dear Mr. Dumey:

The Missouri Department of Natural Resources' Water Protection Program (Department) has reviewed your request for Clean Water Act Section 401 Water Quality Certification (certification) to accompany the Army Corps of Engineers' (Corps) Nationwide Permit 44 for "Mining Activities." The Department did not approve certification of Nationwide Permit 44, which means all projects covered under this permit must be reviewed and approved for individual certification.

After further review of your proposed project, this office certifies that the project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. The permittee shall follow all conditions as stated in the Corps' permit authorization letter date May 31, 2011.
2. The proposed project will result in adverse impacts of approximately 2,800 linear feet (0.32 acre) to an unnamed tributary. The upper reach of the tributary has ephemeral flows while the lower reach has intermittent flows. Compensatory mitigation shall be according to the stream mitigation and management plan approved by the Corps. Copies of all required documents such as monitoring reports shall be supplied to the 401 Certification Unit, Missouri Department of Natural Resources, Water Protection Program, Permits and Engineering Section, P.O. Box 176, Jefferson City, MO 65102-0176.
3. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent water bodies as a result of this operation. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid wastes shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. Petroleum products

spilled into any water body or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible to the Department's 24-hour Environmental Emergency Response number at (573) 634-2436.

4. Acquisition of a Clean Water Act Section 401 Water Quality Certification (certification) shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded. Any National Pollutant Discharge Elimination System Permits, Land Disturbance Permits, or other requirements shall be complied with. Any land disturbance activities disturbing one or more total acres for the entire project require a storm water permit from the Department. Applicants with questions are encouraged to call the Department's Regional Office in the project area. A regional office map with contact information can be located at www.dnr.mo.gov/regions/regions.htm.

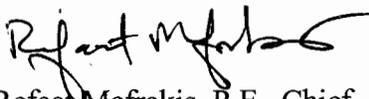
Missouri Clean Water Law, Chapter 644.052.9 RSMo, gives the Department the authority to collect a fee for the issuance of a certification. As of January 1, 2011, this authority has expired, which means the Department no longer has statutory authority to collect water permit fees. This includes the certification fee. Please do not send a payment to the Department.

You may appeal to have the matter heard by the Administrative Hearing Commission (commission). To appeal, you must file a petition with the commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

This certification is part of the Corps' permit. Water Quality Standards must be met during any operations authorized by these permits. If you have any questions, please contact Ms. Carrie Schulte by phone at (573) 751-7023, by e-mail at carrie.schulte@dnr.mo.gov, or by mail at the above referenced address. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM



Refaat Mefrakis, P.E., Chief
NPDES Permits and Engineering Section

RM:csp

c: Mr. Charles Frerker, Army Corps of Engineers, St. Louis District
Mr. Dean Smart, Midwest Environmental Consultants
Ms. Donna Riebeling, St. Louis Regional Office
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