

DRAFT



**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
NIGHTINGALE CREEK CONFERENCE ROOM
LEWIS AND CLARK STATE OFFICE BUILDING
1101 RIVERSIDE DRIVE
JEFFERSON CITY, MISSOURI
January 26, 2012**

Chairman Jim DiPardo called the meeting to order on January 26, 2012 at 9:59 a.m., at the Department of Natural Resources, Lewis and Clark State Office Building, Nightingale Creek Conference Room, located at 1101 Riverside Drive, in Jefferson City, Missouri.

Commissioners Present: Jim DiPardo, Chairman; Joe Gillman, and Kevin Mohammadi present for John Madras, Dr. Gertsch, Stuart Miller present for Aaron Jeffries. Not present Dr. Haddock, Vice Chairman; John Madras and Aaron Jeffries.

Staff Present: Bill Zeaman, Joyce Luebbering, Teri Bibbs, Don Cripe, Tucker Fredrickson, Ron Dumey, Amanda Lowe, Kurtis Cooper, Guy Frazier, Mike Mueller, David Dowdy, and Tina Stockman.

Others Present: Jenny Frazier, Assistant Attorney General; Steve Rudloff, Missouri Limestone Producers Association; Van Beydler, Department of Natural Resources, Division of Environmental Quality Administration; Bob Clay and Paul Simon, Department of Natural Resources, Water Resource Center; Mike Larsen, recently retired from Department of Natural Resources; Justin Davis, Department of Natural Resources, Division of Geological Land Survey, Rolla; Andy Haertling, Kevin Thieret, John Thieret, Earthworks; Dean Smart, Midwest Environmental Consultants; Larry Coen, Lighthouse Academy; Dru Becyers, Kellen Carder, Tyler Haake, Cheyene Atherton, Morgan Martin, Danan Pruitt, Chris Platt, Asa Palmer, Ray Platt, LPA; Mike Alesandrini, URS Corporation; Brian Brown, Julie Brown, GP Materials South; Sharon Beckham, Citizen; Dennis and Alberta Garrett, Citizen – Land Owner; Dan and Nancy Schilb, Land Owner; Darcy Bybee, Brian D. Newby, Department of Natural Resources, Air Pollution Control Program; Alan Barnes, Tim Woodard, and Pat Short, Con-Agg; Brian Bernskoetter, Missouri Mining Industry Council; and Kelly Silvey, Property Owner.

Approval of November 17, 2011 Commission Meeting Minutes

Agenda Item #2

Commissioner Mohammadi made a motion to approve the November 17, 2011 Meeting Minutes as written. Commissioner Gillman seconded the motion. The motion passed unanimously.

DRAFT

Chairman DiPardo presented Mike Larsen, former Staff Director of the Land Reclamation Program with a Resolution signed by the Commissioners. Chairman DiPardo read the Resolution to Mr. Larsen and congratulated him on his retirement and a job well done for the many years of service he has given to the State of Missouri. Mr. Larsen expressed his gratitude and appreciation to the Commission and Staff for his Resolution and the years that he spent working for the Land Reclamation Commission. He thanked Staff present and not present for all the work experiences he had endured during his career with the Land Reclamation Program and Commission for the past 20 and a half years.

INDUSTRIAL MINERALS

Commissioner Gertsch read and explained the procedure for those speaking and provided some clarification as to the hearing process in reference to the hearing requests that were listed on the Agenda for this meeting.

Hearing Request: Earthworks, 17-acres, St. Francois County, New Site to Existing Permit Agenda Item #3

Joyce Luebbering, Environmental Specialist III, gave a brief introduction of this hearing request to the Commission. Ms. Luebbering passed out a copy of a letter that was sent to the Program last week in reference to this hearing request. Commissioner Mohammadi made a motion that the Land Reclamation Commission find that the Petitioner does not have standing for a hearing, pursuant to section 444.773, RSMo and 10 CSR 40-10.080(2), because they have failed to present good faith evidence that the issuance of the permit for surface mining permit will unduly impact their health, safety or livelihood. Commissioner Gillman seconded the motion. There was no discussion. The motion passed unanimously. Commissioner Gertsch made a motion to grant the permit to Earthworks for the expansion as detailed in our packet based on Staff's recommendation. Commissioner Mohammadi seconded the motion. The motion passed unanimously.

Hearing Request: GP Material South, 201-acres, Washington County, New Permit Application

Agenda Item #4

Tucker Fredrickson, Environmental Specialist III, gave a brief introduction of this hearing request to the Commission. Commissioner Gillman made a motion that the Commission go into closed session to consult their legal representative on this issue. Commissioner Gertsch seconded the motion. A roll call vote was taken:

Commissioner Gertsch: yes

Commissioner Mohammadi: yes

Commissioner Gillman: yes

Commissioner Miller: yes

Chairman DiPardo: yes

The motion passed with all yes votes. The meeting will reconvene in about 15 minutes.

The meeting was called back to order at 11:45 a.m.

DRAFT

Commissioner Gillman made a motion that the Land Reclamation Commission table the issue of GP Material South until the next scheduled Commission meeting of the Land Reclamation Commission of March 22, 2012. I would also like to direct the Land Reclamation Program to work with the Dam Safety Program to provide the Commission with additional information related to the integrity of the tailings dam in question. Commissioner Mohammadi seconded the motion. A roll call vote was taken:

Commissioner Mohammadi: yes

Commissioner Gillman: yes

Commissioner Miller: yes

Commissioner Gertsch: yes

Chairman DiPardo: yes

The motion passed with all yes votes.

Hearing Request: Con-Agg of MO, LLC Accepting Transfer of Fischer Quarries, LLC, Dunham Site, 206-acres, Pettis County

Agenda Item #5

Bill Zeaman, Chief of the Industrial Minerals Unit, gave a brief introduction of this hearing request to the Commission. Commissioner Gertsch made a motion that the Land Reclamation Commission find that none of the petitioners have standing for a hearing pursuant to section 444.773, RSMo and 10 CSR 40-10.080(2), because they have failed to present good faith evidence that the issuance of the Con- Agg of MO, LLC Pettis County, Dunham Site surface mining permit will unduly impact their health, safety or livelihood. Commissioner Gillman seconded the motion. The motion passed unanimously. Commissioner Gillman made a motion that the Land Reclamation Commission approves the permit transfer request of Fischer Quarries to Con-Ag of MO, LLC, for the Pettis County Dunham Site. Commissioner Gertsch seconded the motion. The motion passed unanimously.

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

Agenda Item #6

Bill Zeaman, Chief of the Industrial Minerals Unit, gave an update of the Bond Release Requests approved by the Staff Director. The Commission thanked him for his report.

Settlement Agreement: J.M. Burger Inc., for Notice of Violations 0860-002 and 0860-003

Agenda Item #7

Bill Zeaman, Chief of the Industrial Minerals Unit, gave a progression report in reference to J.M. Burger Inc. Commissioner Gillman made a motion that the Land Reclamation Commission approves the Settlement Agreement between the Land Reclamation Program and J.M. Burger Inc., Notice of Violations 0860-002 and 0860-003 and signs the attached Order as presented to the Commission. Commissioner Mohammadi seconded the motion. The motion passed unanimously.

DRAFT

Settlement Agreement: Partridge Sand and Gravel, Inc., for Notice of Violations 0748-001, 0748-002 and 0748-003

Agenda Item #8

Bill Zeaman, Chief of the Industrial Minerals Unit, gave a brief summary of this agenda item. Commissioner Gillman made a motion that the Land Reclamation Commission accepts the Settlement Agreement for Partridge Sand and Gravel, Inc., relating to Notice of Violations 0748-001, 0748-002 and 0748-003. Commissioner Mohammadi seconded the motion. The motion passed unanimously.

Referral to Attorney General's Office: Gary Shaver, Mining in Areas Without Securing A Permit – Taney County – Open Pit Limestone Operation

Agenda Item #9

Bill Zeaman, Chief of the Industrial Minerals Unit, gave a brief summary of this agenda item. Commissioner Mohammadi made a motion that the Land Reclamation Commission accepts Staff's recommendation with regard to the referral of Gary Shaver Operation in Taney County to the Attorney General's Office for appropriate legal action. Commissioner Gertsch seconded the motion. The motion passed unanimously.

PERMITS, CONTRACTS AND DESIGN

Coal Permitting Activities Update

Agenda Item #10

Mike Mueller, Contracts and Design Unit Chief, reported on this Agenda Item. There was no action required by the Commission. The Commission thanked him for this report.

Abandoned Mined Lands Status Update

Agenda Item #11

Mike Mueller, Contracts and Design Unit Chief, reported on this Agenda Item. There was no action required by the Commission. The Commission thanked him for this report.

Highland Highwall Reclamation Project Update

Agenda Item #12

Dave Dowdy, Environmental Specialist III, Contracts and Design Unit Chief, reported on this Agenda Item. There was no action required by the Commission. The Commission thanked him for this report.

PROJECTS AND INSPECTION UNIT

Confirmation and Approval of Settlement Agreement for Continental Coal, Inc. – Notices of Violations P2005-01 CT-01, P2005-01CT-02, P2003-01 E2-01 and Notices of Delinquent Reclamation N2003-01E2-01

Agenda Item #13

Guy Frazier, Chief of the Projects and Inspection Unit, gave a brief summary of this agenda item. Commissioner Mohammadi made a motion that the Land Reclamation Commission approve the Settlement Agreement for Continental Coal Inc., and confirm Notices of Violations

DRAFT

P2005-01 CT-01, P2005-01CT-02, P2003-01 E2-01 and Notices of Delinquent Reclamation N2003-01E2-01. Commissioner Gertsch seconded the motion. The motion passed unanimously.

OTHER BUSINESS

Introduction of Kurtis Cooper, New Employee in the Industrial Minerals Unit

Agenda Item #14

Bill Zeaman, Chief of the Industrial Mineral Unit, introduced Kurtis Cooper, new employee of the Industrial Minerals Unit. The Commission welcomed Mr. Cooper to the Program.

Comments from the Public

Agenda #15

Mike Alesandrini, URS Corporation, asked the Commission a question in reference to Agenda Item #4 GP Material South. Chairman DiPardo referred the question to the Commissions Attorney, Jenny Frazier.

CLOSED SESSION

Commissioner Gertsch made a motion that the Land Reclamation Commission meet in Closed Session on March 22, 2012 prior to an open meeting for the purpose of discussing personnel actions, legal actions, causes of actions or litigation as provided in Section 610.021 RSMo, 2003. Commissioner Mohammadi seconded the motion. The motion passed unanimously.

ADJOURNMENT OF MEETING

Commissioner Gertsch made a motion to adjourn the meeting. Commissioner Mohammadi seconded the motion. The motion passed unanimously.

The meeting adjourned at 1:12 p.m.

Respectfully submitted,

Chairman