



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

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

MEMORANDUM

DATE: January 10, 2011

TO: Land Reclamation Commission

FROM: Chris Thiltgen, Environmental Specialist IV *WSE for CT*
Land Reclamation Program

SUBJECT: Hearing Request Concerning the New Permit Application for 161 acres by
Heartland Materials, L.L.C., Cape Girardeau County – at the Heartland Quarry
Site

BACKGROUND:

On October 14, 2010, the Missouri Department of Natural Resources, Land Reclamation Program received a new permit application from Heartland Materials, L.L.C. proposing a new permit of 161 acres at the Heartland Quarry Site in Cape Girardeau County. After the application was deemed complete, the company published the public notice once a week, beginning on October 27, 2010, for four consecutive weeks in the *The Southeast Missourian*, a newspaper that is qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in Cape Girardeau County. The company also published a public notice once a week, beginning on October 27, 2010 in the *Cash-Book Journal*, a newspaper that is also qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in Cape Girardeau County. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials and adjacent landowners. This proposed new permit application for 161-acre limestone mining operation is located in Landgrant 799 and 2192, Township 32 North, Range 13 East in Cape Girardeau County. The proposed mine operation timeframe is to the year 2110.

The Staff Director received letters during the comment period concerning the proposed new permit application. Many letters provided comments, a request for a public meeting and a request for a hearing. Heartland Materials, L.L.C. respectively declined to hold a public meeting. Therefore, the next step in the process is to proceed to a request for a hearing before the Land Reclamation Commission at their next meeting.

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The Director received a multitude of letters during the public comment period. I would ask the commission to refer to Attachment I in the commission packet. Therefore, we present a request for a hearing before the commission at the January 27, 2011 meeting. On January 5th and January 7th, 2011, the Staff Director did provide people and placed information on web sites of the time, location of and how to prepare for the January 27, 2011, commission meeting.

The Land Reclamation Act addresses the issues of public notification requirements, permit denial, a request for a public meeting, and requests for a hearing. The Missouri Department of Natural Resources provides protection concerning sediment and run off in to the creek system, air pollution or excessive dust emissions that originate from within the property of the proposed mine site. The Department does not provide protection concerning noise pollution, number of quarries in the area, road safety, property devaluation or blasting.

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 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 issues provided in letters, it is the Director's recommendation to issue the new permit application, for 161 acres in Cape Girardeau County sought after by Heartland Materials, L.L.C. at the Heartland Quarry Site. The Director's recommendation for approving this new permit application is based on the fact that the company has satisfied the requirements for application completeness. This completes the first step of a two step process.

The second step in the process involves the Land Reclamation Commission making the final decision on whether or not people have standing to grant a public hearing.

CT:tb



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DEPARTMENT OF NATURAL RESOURCES

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MEMORANDUM

DATE: January 5, 2011

TO: Land Reclamation Commission

FROM: Mike Larsen, R.G., Staff Director 
Land Reclamation Program

SUBJECT: Director's Recommendation – Heartland Materials, L.L.C., New Permit Application, Heartland Quarry - 161 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 permit for 161 acres at the Heartland Quarry Site in Cape Girardeau County sought after by Heartland Materials, 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 Heartland Materials, 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 the greatest amount of public input ever received by the program for a mining permit application.

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 permit application is based on the fact that the applicant has satisfied the requirements for application completeness as required by both law and regulation. Furthermore, 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 permit application from Heartland Materials, 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 Heartland Materials, L.L.C. Many

people also requested a public meeting and Heartland Materials, 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 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 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 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. At this meeting the petitioners will have the opportunity to convince the commission, through the submission of good faith evidence, that they do, in fact, have standing as defined by the regulations in order for the commission to grant a hearing. 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 should be issued.

ML:ct:tb

Attachment

Attachment 1

Consideration of and Response to Public Comments Received Regarding the Proposed New Permit Application for Heartland Materials L.L.C., 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 public hearing concerning the proposed new permit application of the Heartland Quarry site sought after by Heartland Materials, L.L.C. 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 comments or concerns received.

Comments Received Concerning the Application Contents

Summary of Concerns: In a letter received from legal counsel for Saxony Lutheran High School and Save Our Children's Health, Inc., several comments were made regarding the mining permit application itself. The comments are reiterated below along with responses to those comments.

“Heartland Materials, LLC does not have sufficient legal authority to mine the land in the proposed permitted area.”

Response: In the initial application Heartland Materials, LLC provided to us that a verbal agreement had been reached with the landowners as their “source of right to mine”. This was actually an agreement to enter into a long term lease pending the acquisition of all necessary permits. This aspect of the mining permit application has since been amended. Now, the company has provided written proof to the program that a signed, long term lease has been fully executed with the landowners. This satisfies the requirement found at 444.772.2(2) of the “Land Reclamation Act” which requires the applicant to provide a “source of the applicant's legal right to mine the land affected by the permit.”

“Because the application fails to address any permits issued to the landowners, who may be considered silent partners, the application is deficient.”

Response: Section 444.772.2(4) of the “Land Reclamation Act” requires the applicant and any person associated with the applicant to provide a listing of mining permits held or formerly held under the provisions of this “Act”. Heartland Materials has, in fact, provided a listing of company partners and officials who make up and are associated with this company. All mining permits, past and present, that are or have been held by these persons under the provisions of the “Land Reclamation Act” are listed in the company’s permit application. Landowners of areas proposed to be mined are not considered to be “persons associated with the applicant” in this instance nor have they ever been unless they are, in fact, corporate members, officers or partners in some way affiliated with the applicant. In any event, the program did research our database in an effort to determine if any of the property owners ever held a mining permit. The results confirm that none have.

“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.

“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 Heartland Materials 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 Heartland Materials will need to take immediate corrective actions. Our contact person for Heartland Materials is Danny Dumey who may be contacted by telephone at (573) 545-3030 or in writing at P.O. Box 558, Benton, Missouri 63736.

If Heartland Materials 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 Heartland Materials 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 Heartland Materials, L.L.C. On December 16, 2010 a word search was performed on the Optical Character Reading scanned documents. A sample of sentences with the word "asthma" is listed below:

“As it relates to health, my 10year old son has asthma and my research shows that quarry dust is extremely detrimental to children with this condition.”

“Dust from the quarry and trucks may worsen the condition of children and older adults with asthma and other breathing afflictions.”

“One of our daughters is allergic to dust and has asthma.”

“The dust created by the quarry operation may be detrimental to students and faculty, particularly those who suffer from asthma or other respiratory conditions.”

“I am a senior citizen with severe asthma.”

“My wife has severe asthma.”

“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.”

“What if a child who needed what Saxony has to offer missed his/her chance because he/she was allergic to dust, had asthma, was leery of flying rocks, or was frightened away by the large equipment and noise?”

“My grandsons and their father have asthma and breathing problems already.”

“My nephew suffers from asthma and I know he would suffer greatly from the dust.”

“As it relates to health, several of our students have asthma, including my niece, Miranda Brewer, who is a freshman at the school, and my research shows that quarry dust is extremely detrimental to children with this condition.”

“First and foremost, to me personally, is the fact my youngest son is asthmatic. Ironically, he was just discharged from the hospital yesterday due to a severe asthmatic episode.”

“As it relates to health, several of these students have been reported to have asthma, as does two of my Grandsons, and one Son-In-Law. Also, there are several people in our neighborhood with children who also suffer from these symptoms.”

Response: In comments received on or before December 16, 2010, the word "asthma" appears forty-two (42) times. This is less than two percent (2%) of all the correspondence received for Heartland Materials.

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: Environmental Protection Agency 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 Heartland Materials 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 Heartland Materials. Our contact person for Heartland Materials is Danny Dumey who may be contacted by telephone at (573) 545-3030 or in writing at P.O. Box 558, Benton, Missouri 63736.

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 1400 Independence Road, Suite 100, 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: 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.

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. 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 Heartland Materials is Danny Dumey who may be contacted by telephone at (573) 545-3030 or in writing at P.O. Box 558, Benton, Missouri 63736.

We further suggest that Heartland Materials 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 Heartland Materials 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 Heartland Materials 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 Heartland Materials to do so, it is simply a good neighbor policy. Again, our contact person with Heartland Materials is Mr. Danny Dumey who may be contacted by telephone at (573) 545-3030 or in writing at P.O. Box 558, Benton, Missouri 63736.

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 Heartland Materials 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, obtaining the required "Clean Water Act" permits and a request that a subsurface geologic study be performed.

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 Heartland Materials 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 provide 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 Heartland Materials, 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: "I am also very concerned as to what the quarry would do to Hubble Creek, since it flowed right through the proposed area where the quarry is set to be built, I am not exactly sure what effect it will have on the animals, fish and birds that use the creek but it cannot be good."

"This entire area is the starting of Hubble Creek. If dust/"fines" are allowed to enter the Hubble Creek at the start, the City of Jackson will have to suffer the consequences of what that creeks' contamination will bring to the City Park and surrounding Main Street businesses."

"This blasting could change our water table and interfere with Hubble Creek which feeds in to our park system in Jackson, Missouri and support local wildlife as well."

"My son and I like taking walks down the road to Hubble creek and looking at the fish, how will that be affected?"

"The Heartland application detail map shows the location of the unnamed creek tributary that flows through the proposed quarry site, as well as a proposed outfall to that tributary, Outfall #001. However, none of the application materials indicate that Heartland has applied for or intends to apply for a dredge and fill permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. A note on the detail map submitted with the application indicates that a "USACE 404 Permit Eligibility Determination currently in process." We believe that the unnamed creek tributary on the proposed site falls well within the jurisdiction of the U.S. Army Corps of Engineers. Even if the tributary is not a traditional navigable water, the U.S.

Army Corps of Engineers exercises jurisdiction over non-navigable tributaries of traditional navigable waters that are relatively permanent where tributaries flow at least seasonally. *See* U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, "Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States*," (December 2, 2008). Based on the jurisdiction of the U.S. Army Corps of Engineers over the navigable waters of the United States, any dredge or fill material discharged to that tributary requires a permit under Section 404 of the Federal Water Pollution Control Act, or the Clean Water Act, 33 U.S.c. §§ 1344 *et seq.*”

“Further, if Heartland plans to discharge to the tributary, which is not addressed in the Heartland application, this constitutes a "discharge of *pollutants*" to the waters of the United States under the Clean Water Act, and Heartland must apply for and receive a National Pollutant Discharge Elimination System or "NPDES" permit. *See* 33 U.S.c. §§ 1342(a). The Clean Water Act prohibits discharge of a pollutant from a point source to a water of the United States without an NPDES permit. 33 U.S.c. § 1311 (a). A "point source" is "any discernible, confined and discrete conveyance, including, but not limited to any pipe ditch, channel, tunnel, conduit ... from which pollutants are or may be discharged." 33 U.S.c. § 1362(14). A "pollutant" is defined as "dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." 33 U.S.c. § 1362(6). There is no doubt that an outfall to a tributary that is a water of the United States is a point source under the Statute. Thus, if Heartland plans to discharge any material that could be a pollutant in to the tributary through its planned outfalls, it is required to receive an NPDES permit to do so.”

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: 15-acres for wildlife, 88-acres development and 58-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 Heartland Materials, 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.

Livestock Watering in Creeks

Concern: “My brother rents part of my property for his cattle operation. A creek running through my land is the source of his cattle's water supply. I also have a spring on my property. I am concerned about how this quarry would affect the water in this creek. The creek also runs into Hubble Creek which runs through Jackson City Park.”

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>)

Request for Geologic Study

Concern: “Also, we would like to request that the Department consider requiring Heartland Materials to obtain a geologic study in order to receive their permit. We serve over 2400 homes in the region and feel that by Heartland Materials providing the DNR with a geologic study, it

will help show the possible affect the quarry would have on the community's water needs in particular.”

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.

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, that the presence of quarry did not affect the value of a property.

Anyone has every right to seek restitution for damage that Heartland Materials, 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 not sufficient evidence to either support or refute the claim that attendance will decline.

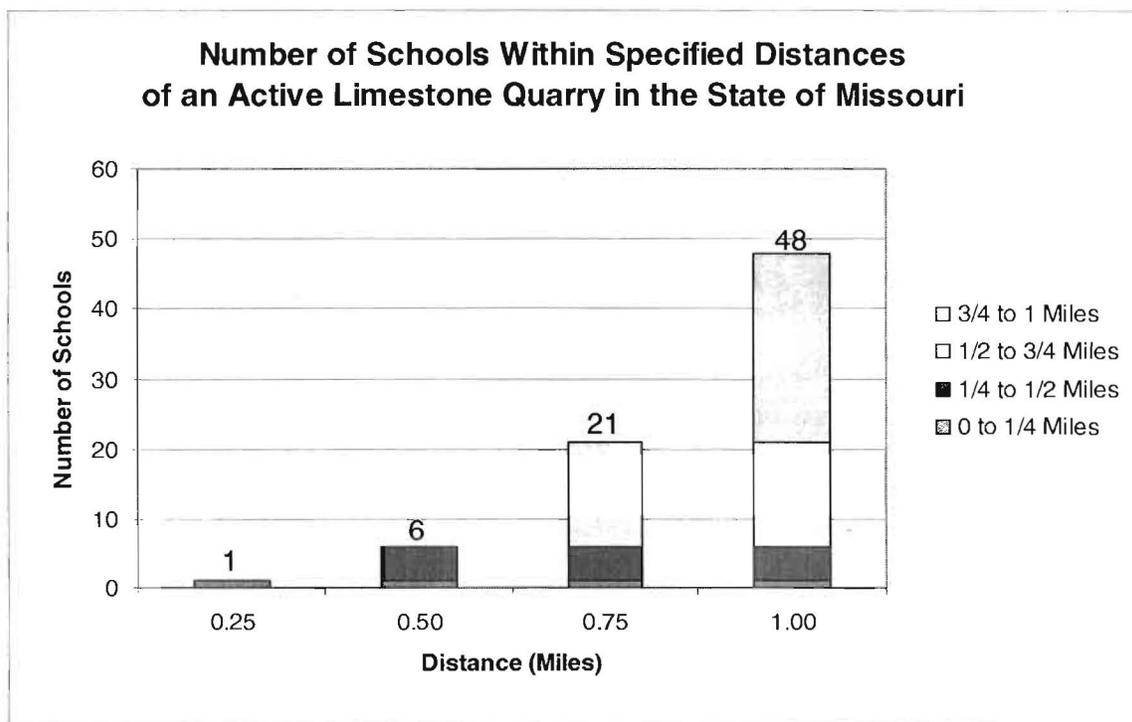
In consideration of and responding to this concern, the staff is simply not in any position to affirm or dismiss the possible impacts to the future well being and livelihood of Saxony Lutheran High School and its administrators or other employees at this time. Nor are we in any position to predict the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

Deny the Permit

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

"Consequently, I respectfully urge your group to give serious consideration to NOT approving either of these quarries at this site because of the health concerns, not only for me, but for the other people at Saxony Lutheran High School."

"We are asking you to deny blasting rights to any quarry wanting to destroy our neighborhood."

"In addition, we request that you, as the Director of the Land Reclamation Program, make a formal recommendation to the Land Reclamation Commission that it deny the Heartland Materials Permit for Industrial Mineral Mines -New Open Pit Permit-Heartland Quarry, SUR-799 & 2102, T-32N, R13E, Cape Girardeau County, Missouri."

"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.

Affects on Quality of Life

Comment: "I am very concerned how the quarry would negatively affect me, my quality of life, and my property."

"The constant background noise of generator and rock crusher operation, particularly during, but not limited to (given shift work of many local residents), the evenings and on weekends would also be a detriment to health and quality of life of my family and nearby residents."

"I have grave concerns about how the extra irritants in the air will affect the health and daily quality of life of myself and everyone in the area, the students of North Elementary School and especially the students at Saxony Lutheran High School who will be in very close proximity to the quarry site."

"Several residents on our road work swing shifts, or as in the case of my husband the overnight shift. These people sleep during the day. How will the noise from blasting, drilling, rock crushers, generators, heavy trucks and excess traffic affect the quality of sleep these people need to perform their jobs adequately and safely."

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

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

"A quarry in this area, especially in this location, would cause several unwanted changes to the quality of life for myself, my family, and the many people who live, work, and go to school in this area."

"With a quarry located this close to my home, I am very concerned that this quarry will affect the quality of life I have come to love in the Fruitland area."

"I fear that I, and many people in the Fruitland area, will have a change for the worse in the quality of life that we live in this area."

Response: 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.

Current law requires a petitioner to provide to the Land Reclamation Commission good faith evidence of how their health, safety or livelihood will be unduly impaired by the issuance of the permit before a hearing may be granted. We recommend that petitioners be prepared to explain to the commission why they feel that 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.

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 Tuesday, November 30, 2010, a letter was received from Heartland Materials, L.L.C. respectfully declined to hold a public meeting.

Hearing Request

Summary of Concern: The following individuals wrote to the staff director and/or the commission to request that a hearing be granted prior to a decision being made on the issuance of this permit: Stacia & Michael Shipman, Martha Thompson, Douglas Breite, Christine Breite, Kelly Johnson, Geroid Lix, Vicki Howell, Joyce Clark, Samuel Breite, Erna Mahnken, Danielle Huber, Bill Webber, Sandra Stuart, Verna Kieninger, Randy & Lisa Begley, Dan & Carol Hemmann, Raleigh & Janet Johnson, Mr. August Birk, Jennifer Johnson, Amelia Mansfield, Roger & Bonnie Seabaugh, Laura Klinkhardt, Reid & Priscilla Mabuice, Michael & Mary Hecht, Leon Laurentius, Helen Laurentius, Gary Klinkhardt, Jayne Tiehes, Darryl Strohmeyer, Thomas

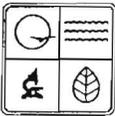
R. Brunke, Dan Seib, Martin Robinson, LaDonna Oliver, Albert Oliver, Rick Tiehes, Dana Steffens, Kerry Steffens, Jerry Emerson, Doris Emmerson, Kim Mueller, Daniel Makins, Charlotte Hadler, Mr. & Mrs. Elbert Roth, Roy Aberadaufer (sp?), Eisabeth Gibbons, Carolyn Cannon, Donald Cannon, Willard & Glenda Hadler, Laurie Heise, David Heise, Charles Wayne Heise, Jeanne Heise, Kathy Heise, Linda Dreyer, Brad Mueller, Don Mueller, Karla Versemann, Renee Kaempfe, Wm. Paul Kaempfe, Brent Versemann, Elaine Kaempfe, Lisa Kaempfe, Kara Versemann, Mark Kaempfe, Rodney & Casey Brown, Dale Steffens, Robert P. Wilson, Ruby Eichhorn, Margaret Mankins, Shannon Mueller, Cletus & Ruby Steffens, Arlan Steffens, Mark & Jennifer Roth, Stacey Versemann, Pat Cox, Andy & Jenn Spieler, Timothy Dreyer, Rev. Roger Abernathy, Verna Koenig, Norma Koenig, Roger Versemann, Euline Koenig, Ruth Hecht, Honorable Rep. Scott A. Lipke, Clay & Sandy Roth, Paul Koenig, Geroid Lix, Thomas Kiefner, Dean & Joyce Lorenz, William & Lydia Bohnert, Pat Tanz, Eric & Theresa Borgfield, Oleen Saffell, Bill Holt, Nancy Reppen, Alan & Linda Verseman, Norvald Reppen, Mike Roth, Steven Michael Blackwell, Wayne & Mary Koenig, Lauren Roth, Karen Schmidt, Daniel & Darlene Kiefer, Linda Holt, Brian & Michelle Mueller, Gerry Koenig, Richard Schmidt, Mildred Bachmann, Paul & Diane Winningham, Gordon Walton, Jennifer Koenig, Frank Bowles, Tammy Lueders, Bill & Gloria Davis, Kenneth & Wanda Steffens, Leonard & Joy Hoffemeister, Ramona Nenninger, Jessica Reisinbechler, Eunise Roth, Kenyon & Mary Reisinbechler, Alice A. Birk, Don & Carolyn Hopper, William L. Linamen, Marvin and Aileen Petzoldt, Norma J. Boettcher, Rick & Judy Weiser, Henry & Katrina Voelker, Pat Petzoldt, Karla Avers, John Muench, Rhonda Starzinger, Marie M. Lange, Don & Sue Hellwege, Elsie & Raymond Siebert, Pamela S. Dooley, Gayla J. Ressel, Tamera J. Petzoldt, Mary Renne, Barbara Theiss, Jim Whaley, Pamela L. Kluesner, Rita Whaley, Todd L. Petzoldt, Glen Birk, Betty M. Roth, Ilmer Burroughs, William L. Linamen, Marvin and Aileen Petzoldt, Norma J. Boettcher, Rick & Judy Weiser, Henry & Katrina Voelker, Pat Petzoldt, Karla Avers, John Muench, Rhonda Starzinger, Marie M. Lange, Don & Sue Hellwege, Elsie & Raymond Siebert, Pamela S. Dooley, Gayla J. Ressel, Tamera J. Petzoldt, Mary Renne, Barbara Theiss, Jim Whaley, Pamela L. Kluesner, Rita Whaley, Todd L. Petzoldt, Glen Birk, Betty M. Roth, Ilmer Burroughs, John Reese, Melody Hamm, Christopher Roth, Jennifer Mosier, Jason Hamm, John Mosier, Sandra S. Fluegge, Ken & Joyce Moore, Raymond and Lorna Roth, Maurice H. Lange, Leonard Jansen, Wendell & Kim Mueller, Katie Duvall, Rita Kester, Eric Ressel, Brad & Paula Beal, Dale F. Kester, Rev. Loren A. Bottcher, Jerry G. Lewis, Beverly Lewis, Martin B. Roth, Wayne & Marilyn Steffens, Bill Shrum, Martha Meunch, Dale & Betty Brown, Carolyn K. Hopper, Gary W. Kester, Vernon & Betty J. Steffens, Earl & Delores Hacker, Dennis & Diane Leimbach, Lillian Weber, Ruth Kasten, Dorothy Bertrand, Gloria Kaiser, Mabel Shrum, Dorothy Seabaugh, Harry Bertrand, Nancy A. Kester, S. Lueders, Larry R. Fluegge, Stan Petzoldt, Geraldine Steffens, Nelson Roth, Karla Kiefner, Lori Steffens, Darlene Loos-Cowan, Gladys E. Nebel, Charles Vaughn, Frank & Lori Zieba, Marjorie Suedekum, Daniel Steffens, Max Wieser, Anna Hickam, Joe & Ramona Nenninger, Alberta Heinbaugh, Brad & Rita Weber, Peggy Scholl, Shelly Hale, Suzanne Vaughn, Marilyn Lowes, Mike Reed, Sarah DeGroot, Travis Perr, John & Jane Kenner, David P. Hunt, Meta Petzoldt, Kristin Perr, Harlan Perr, Kimberly Perr, Lavanda Perr, Kristine Coe, Dan & Kathy Schoenherr, Rich & Kathy Steffens, Bonnie Hemmen, Melvin & Doris Schmidt, Al Franke, Richard Walther, Harold K. & Rebecca Witherby, Carolyn Walther, Judy Franke, Charlene Willenbring, Carolyn Wills, Saxony Lutheran High School, Judy Diebold, Jean Ann Pierce, PWSD #1 Cape & Perry County, Ashley Zeigler, Gary & Geneva Brandes, Annette A. Roth, Franklin Roth, Linda Phillips, Mr. Jim Outman, Bradley & Patricia Schwab, Joe & Jane

Kurre, Aimee Stowers, Staci & Mathew Wendel, Gary & Diane Laurentius, Tyson & Carrie Wunderlich, Julie Hughes, Charles T. Hampton, Lynne S. Hampton, Lisa M. Hudson, Rev. Ray Mirly, Dennis Gehrke, Lynn & Carol Winter, Robert & Amy Birk, Michael & Kimberley Pohlman, Adam, Gary & Carol Steffens, Don & Stephanie Ford, Carl & Mary Talley Trust, Ruth Ann Boxdorfer, Anna Culbertson, Donald & Linda Palisch, Dalene Grebing, Scott Engert, Margie Engert, Bruce & Linda Engert, Betty Schuells, Dorothy Pinkston, Janie Pfanstiel, Dale Clarke, Lynne Cairns, Brooke Breuer, Carolyn Fieldler, Debbie Howie, Jo Ann Bock, Richard Cairns, Grace Albrecht, Tony & Kathy Harris, Dorthylyn Evans, 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. Heuring, Ronald A. Heuring, 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, Paul J. Hudson, Dan & Rahe Wise, Tommy Petzoldt, Doug Hemman, Donna J. Pry, Patsy Chandler, Abby Petzoldt, Rev Ray Mirly, Dennis Gehrke, Peggy Lorenz, Kermit Meystedt, Paige & Matt Kiefner, Bill & Betty Heisserer, Lauri Spain, Bruce & Kim King, Brinda & Omer Luttrull, Matt Wendel, Ray & Julie Meyer, David Shorr, John Beaudean, Michael & Nancy Berry, Jessica Wyatt, Leslie Lochmann, Dennis Stowers, Leslie & Kimberly Fritsche, Richard & Carol Dippold, Linda Murphy, Jerry Kasten, Marlene Roth, Lee Haupt, Jennifer Koenig, Diann Mueller, Connie Burroughs, Mildred Bachmann, Kevin Coe, Lillian Vogel, Ray & Julie Meyer, Kenyon & Mary Reisinbechler, Kathy Schlichting, Mahela Lueders, Janine Pfanstiel, Lynne Cairns, Richard Cairns, Grace M. Albrecht, Kathy Harris, Clay Roth, Dan Roth, Sandy Roth, Brad H. Weber, Rita A. Weber, Linda Palisch, Dorene Grebing, Bruce & Kim King, Scott Engert, Margie Engert, Linda & Bruce Engert, Patricia L. Callier, Lovaira Bock, Paul Horn, Michael & Patricia Kim, Carla Stadt, Frances J. Reid, Carinsa D. Perez, Evelyn Nussbaum, Ron Wahlers, Harold & Jeanine Hager, Virginia Wahlers, Keith & Beth Keller, Tim & Karen Sutterer and Larry Hale.

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.



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 LAND RECLAMATION PROGRAM
PERMIT APPLICATION FOR INDUSTRIAL MINERAL MINES – 10 CSR 40-10.020(1)

NAME OF CORPORATION, COMPANY, PARTNERSHIP OR INDIVIDUAL Heartland Materials, LLC		DATE 9/10/2010	
MAILING ADDRESS P.O. Box 558		CITY Benton	STATE MO
CONTACT PERSON Danny Dumey		ZIP CODE 63736-	
		TELEPHONE NUMBER WITH AREA CODE 573-545-3030	

RECEIVED
MO. LAND RECLAMATION COMM.

OCT 04 2010

CHECK ANY THAT APPLY
 New Permit Permit Amendment Permit Revision Permit Expansion

Site Name or Number	Acreage	Location: County, Section, Township, Range (east or west)
1. Heartland Quarry	17	SUR 799 & 2192, T-32N, R-13E, Cape Girardeau Co.
2.		
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20.		

ATTACH ADDITIONAL SHEETS IF NECESSARY – SIGNATURE AND NOTARIZATION REQUIRED FOR ALL APPLICANTS

SIGNATURE OF APPLICANT <i>Danny Dumey</i>	TITLE <i>Shareholder</i>	DATE <i>9-30-10</i>
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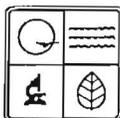
Appeared before me this 30th day of September, 2010, to me personally known, who executed the above as their free acts and deeds.

NOTARY PUBLIC EMBOSSE	STATE <i>Missouri</i>	COUNTY (OR CITY OF ST. LOUIS) <i>Perry</i>
	SUBSCRIBED AND SWORN BEFORE ME, THIS <i>30th</i> DAY OF <i>September</i> YEAR <i>2010</i>	RUBBER STAMP CLEAR AREA BELOW
	NOTARY PUBLIC SIGNATURE <i>Janet L. Cornelius</i>	JANET L. CORNELIUS NOTARY SEAL NOTARY PUBLIC - STATE OF MISSOURI COUNTY OF PERRY MY COMMISSION EXPIRES: 5-14-12 COMMISSION # 08413100
	MY COMMISSION EXPIRES <i>05/14/12</i>	
	NOTARY PUBLIC NAME (TYPED OR PRINTED) <i>Janet L. Cornelius</i>	

MISSOURI DEPARTMENT OF NATURAL RESOURCES
 LAND RECLAMATION PROGRAM
 P.O. BOX 176
 JEFFERSON CITY, MO 65102-0176
 PHONE: 573-751-4041
 FAX: 573-751-0534

FOR DEPARTMENT USE ONLY: APPROVED BY	DATE APPROVED	PERMIT NUMBER	EXPIRATION DATE
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1072



STATE OF MISSOURI
 DEPARTMENT OF NATURAL RESOURCES
 GEOLOGICAL SURVEY PROGRAM
PERMIT APPLICATION FOR INDUSTRIAL MINERAL MINES
GEOLOGIC RESOURCES FEE WORKSHEET 256.700 RSMo.

RECEIVED
 MO. LAND RECLAMATION COMM.

OCT 04 2010

NAME OF CORPORATION, COMPANY, PARTNERSHIP OR INDIVIDUAL Heartland Materials, LLC.		DATE September 10, 2010	
ADDRESS P.O. Box 558	CITY Benton	STATE MO	ZIP CODE 63736
CONTACT PERSON Danny Dumey		TELEPHONE NUMBER 573-545-3030	

TYPE OF PERMIT REQUEST - CHECK ANY THAT APPLY
 New Permit Permit Renewal Permit Amendment Permit Expansion

SITE NAME OR NUMBER <small>(Add sheet for additional sites)</small>	ACREAGE	LOCATION	COMMODITY
		<small>County, Section, Township and Range (East or West)</small>	
1. Heartland Quarry	17	Cape Girardeau Co, SUR 799 & 2192,	LS
2.		T-32N, R-13E	
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			

FEE SCHEDULE	
A. Annual Permit Fee: (\$50.00 per operator)	\$50.00
B. Site Fee: (\$50.00 per site)	\$ 50.00
C. Acreage Fee: (\$6.00 per acre on first 300 acres bonded; plus \$3.00 per bonded acre in excess of 300 acres)	\$ 102.00
TOTAL: (add items A, B and C)	\$ 202.00

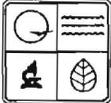
NOTE: Operators mining less than 5,000 tons of gravel annually are EXEMPT.

NOTE: Maximum Geologic Resources Fee for any operator is \$3,500.00.

SIGNATURE OF APPLICANT <i>Danny Dumey</i>	TITLE <i>Share holder</i>	DATE <i>9-30-10</i>
--	------------------------------	------------------------

NOTE: This form and payment must be mailed to the Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102-0176. You may combine this payment with fees associated with your Land Reclamation Commission permit application form (MO 780-1007).

JAN 06 2011



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION PROGRAM
SITE INFORMATION

COMPLETE THIS FORM FOR EACH SEPARATE AREA OF DISTURBANCE ASSOCIATED WITH MINING OPERATIONS

SITE		
SITE NAME OR NUMBER Heartland Quarry		PERMIT NUMBER 1072(Pending)
COMPANY Heartland Materials, LLC		
COUNTY Cape Girardeau	¼ SECTION	SECTION SUR 799
TOWNSHIP T-32N	RANGE R-13E	ACRES 72
RIVER OR STREAM NAME (FOR IN-STREAM ACRES) NA		
MINERAL COMMODITY Limestone	ESTIMATED TONS/YEAR (GRAVEL SITES) NA	

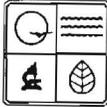
LANDOWNER		
NAME OF LANDOWNER (COMPLETE A SEPARATE FORM FOR EACH LANDOWNER) Hoffmeister Real Estate, L.L.C.		
MAILING ADDRESS 1309 County Road 601, P.O. Box 331		
CITY Jackson	STATE MO	ZIP CODE 63755
<input type="checkbox"/> Mineral Deed <input checked="" type="checkbox"/> Warranty Deed <input type="checkbox"/> Other (Describe):		<input type="checkbox"/> Lease <input type="checkbox"/> Verbal DATE OF AGREEMENT 1/5/2011

MINERAL RIGHTS OWNER		
MINERAL RIGHTS OWNER (COMPLETE A SEPARATE FORM FOR EACH MINERAL RIGHTS OWNER) As Above		
MAILING ADDRESS		
CITY	STATE	ZIP CODE
<input type="checkbox"/> Mineral Deed <input type="checkbox"/> Warranty Deed <input type="checkbox"/> Other (Describe):		<input type="checkbox"/> Lease <input type="checkbox"/> Verbal DATE OF AGREEMENT

Note: Each site must be shown on a map and be included in a public notice and an approved mine plan.

FOR DEPARTMENT USE ONLY
Land Reclamation Program Site Number _____

JAN 06 2011



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION PROGRAM
SITE INFORMATION

COMPLETE THIS FORM FOR EACH SEPARATE AREA OF DISTURBANCE ASSOCIATED WITH MINING OPERATIONS

SITE

SITE NAME OR NUMBER Heartland Quarry	PERMIT NUMBER 1072(Pending)
---	--------------------------------

COMPANY
Heartland Materials, LLC

COUNTY Cape Girardeau	¼ SECTION	SECTION SUR 2192
--------------------------	-----------	---------------------

TOWNSHIP T-32N	RANGE R-13E	ACRES 89
-------------------	----------------	-------------

RIVER OR STREAM NAME (FOR IN-STREAM ACRES)
NA

MINERAL COMMODITY Limestone	ESTIMATED TONS/YEAR (GRAVEL SITES) NA
--------------------------------	--

LANDOWNER

NAME OF LANDOWNER (COMPLETE A SEPARATE FORM FOR EACH LANDOWNER)
Hoffmeister Farms L.P. et al.

MAILING ADDRESS
5091 U.S. Highway 61

CITY Jackson	STATE MO	ZIP CODE 63755
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<input type="checkbox"/> Mineral Deed <input type="checkbox"/> Warranty Deed <input type="checkbox"/> Other (Describe):	<input checked="" type="checkbox"/> Lease <input type="checkbox"/> Verbal	DATE OF AGREEMENT 1/6/2011 <i>MCC</i> <i>1-6-11</i>
---	--	--

MINERAL RIGHTS OWNER

MINERAL RIGHTS OWNER (COMPLETE A SEPARATE FORM FOR EACH MINERAL RIGHTS OWNER)
As Above

MAILING ADDRESS

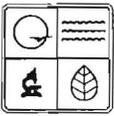
CITY	STATE	ZIP CODE
------	-------	----------

<input type="checkbox"/> Mineral Deed <input type="checkbox"/> Warranty Deed <input type="checkbox"/> Other (Describe):	<input type="checkbox"/> Lease <input type="checkbox"/> Verbal	DATE OF AGREEMENT
---	---	-------------------

Note: Each site must be shown on a map and be included in a public notice and an approved mine plan.

FOR DEPARTMENT USE ONLY

Land Reclamation Program Site Number _____



OCT 04 2010

COMPANY NAME

Heartland Materials, LLC

TYPE OF MINE PLAN (CHECK ONE)

Short Term – for one permit year Long Term – for period through date 12/31/2110

DESCRIPTION OF SITE PRIOR TO LAND RECLAMATION COMMISSION PERMITTING (BY APPLICANT OR PRIOR OPERATOR), INCLUDING SOIL, VEGETATION AND TOPOGRAPHY.
 This mine plan covers 161 acres. It consists of a combination of agricultural land and pasture bisected by an unnamed intermittent creek tributary draining to the southwest. Slopes are between 5 and 14 % and overall topographic relief is about 60 feet. Mineral formations include the Kimmswick and Platin Limestones. They are overlain by 10-20 ft of residuum and the upper limestone is highly weathered for about another 20 feet. According to the Cape Girardeau Co Soil Survey (1981), there is only one predominant soil type in the area. It is the Menfro Silt Loam (16C and 16D). Topsoil (A Horizon) thickness averages between 6-8 inches. Subsoil (B Horizon) extends to depths of 49-76 inches. The 100 year period of operation is partly based on the anticipated rock volume to be mined (one-half million tons/yr). The quarry has a reserve estimate of 80 million tons, making the 100-yr period somewhat conservative even if desired annual production is always attained.

OPERATION PLAN – 10 SCR 40 – 10.020(2)(D)1

A. TOPSOIL

AVERAGE DEPTH OF TOPSOIL, PRIOR TO LAND RECLAMATION COMMISSION PERMITTING
 6-8"

IS TOPSOIL TO BE SOLD OR DISCARDED OFF-SITE?
 Yes No

DESCRIBE METHODS AND EQUIPMENT USED FOR TOPSOIL REMOVAL

Where present, topsoil and underlying subsoil to a depth of 12" will be removed ahead of the leading edge of the pit using a combination of scrapers, dozers, excavators, and end-dumps.

DESCRIBE METHODS AND EQUIPMENT USED FOR TOPSOIL STORAGE AND PROTECTION

Topsoil salvaged during mining operations will be stockpiled using scrapers/end dumps in protected areas, away from drainages of other low-lying areas, and seeded with a temporary grass cover to avoid excessive wind and water erosion. Topsoil stockpiles will be placed within bonded areas of the permit. If necessary, berms will be erected around stockpiles.

PERMIT NUMBER

SITE NAME

Heartland Quarry

LAND RECLAMATION PROGRAM ASSIGNED SITE NUMBER

B. SPOIL

DESCRIBE METHODS AND LOCATION OF SPOIL PLACEMENT AND DISPOSAL

Spoil is undefined under 10 CSR 40-10.100. However, overburden (excess subsoil & weathered rock) will be handled using a combination of dozers/end dumps/excavators. It will be consolidated within low lying areas located east and northeast of the mining area. Some spoil may also be used for the construction of safety/privacy berms along the northern, eastern, and western margins of the permit.

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C. ACID MATERIALS

DESCRIBE METHODS AND EQUIPMENT USED FOR HANDLING ACID MATERIALS (IF NONE IS ANTICIPATED, WRITE "NONE" BELOW)

None

D. PIT INFORMATION (GIVE ALL DIMENSIONS IN FEET)

DESCRIBE LOCATION AND ORIENTATION OF PIT, IF NOT CLEAR ON SITE MAPS

Pit will be oriented roughly northeast-southwest and move to the southeast during the initial stages of mining. The long-term progression of mining will be toward future reserves as indicated on the detail map.

Yes No

Will any excavation be at or within 50' of the right-of-way of any public road?

Yes No

Will any highwall consisting of unconsolidated materials be left within 50 feet of the right-of-way of any public road? (Note: For unconsolidated materials left in place, a slope of no more than 40 degrees may start near the right-of-way, and in no case may the excavation be closer to the right-of-way than 50' or 25' plus 1 1/2 time the depth of unconsolidated material, whichever is greater, unless a variance is granted by the Land Reclamation Commission.)

Yes No

Will any excavation start at or within 50' of any property line? (Note: If the answer is yes, a safety barrier may be needed.)

PERMIT NUMBER

SITE NAME

Heartland Quarry

LAND RECLAMATION PROGRAM ASSIGNED SITE NUMBER

RECLAMATION PLAN – 10 CSR 40-10.020(2)(D)2

A. REVEGETATION (ATTACH ADDITIONAL SHEETS, IF NEEDED)

REVEGETATION MIX #1	PURPOSE OR LAND USE Development (Industrial)	SEEDING OR PLANTING TIME (9/1-10/30); (3/15-5/15)
---------------------	---	--

DESCRIBE METHODS AND EQUIPMENT TO BE USED FOR SEEDING OR PLANTING
 Seed will be drilled or broadcast using a cyclone seeder. If broadcast, seed will be worked into the ground using a harrow or similar tool designed for that purpose. Industrial areas that may require revegetation include berms, spoil banks, and isolated parts of the mine plan area.

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 OCT 04 2010

Lime and fertilizer will be applied according to recommendations based upon soil analyses from a qualified soils lab. Mulch will be applied to all slopes exceeding 5:1.

Seeded Species	Pounds/Acre	Tree or Shrub Species	Stems/Acre
Fescue	10		
Smooth Brome	5		
Red/Ladino Clover	5		

REVEGETATION MIX #1	PURPOSE OR LAND USE Wildlife	SEEDING OR PLANTING TIME (9/1-10/30); (3/15-5/15)
---------------------	---------------------------------	--

DESCRIBE METHODS AND EQUIPMENT TO BE USED FOR SEEDING OR PLANTING
 Seed will be drilled or broadcast using a cyclone seeder. If broadcast, seed will be worked into the ground using a harrow or similar tool designed for that purpose.

Lime and fertilizer will be applied according to recommendations based upon soil analyses from a qualified soils lab. Mulch will be applied to all slopes exceeding 5:1.

Seeded Species	Pounds/Acre	Tree or Shrub Species	Stems/Acre
Orchard Grass	2	Wheat	30 lbs/ac
Red/Ladino Clover	4		
K. Lespedeza	10		

PERMIT NUMBER	SITE NAME Heartland Quarry	LAND RECLAMATION PROGRAM ASSIGNED SITE NUMBER
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B. GRADING

DESCRIBE PROPOSED RECLAIMED TOPOGRAPHY, INCLUDING SLOPES

Most of the site will be leveled to a maximum 3% slope to accommodate the post mining land use of development/industrial. Overburden disposal areas will be graded to a free-draining topography traversable by farm machinery and suitable for the intended land use. For wildlife areas, a maximum of 25% of the spoil placement area may consist of steeper slopes, but will be graded to a minimum width of 30 feet or one-half the diameter of the base pile, whichever is less. A consolidated materials highwall may remain after mining.

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C. DESCRIBE THE GENERAL SEQUENCE AND TIMING OF THE FOLLOWING ACTIVITIES

GRADING

Will be completed within 12 months after mining of viable mineral reserves is complete in that portion of the permit area based on prior mining practices at the site, unless credible evidence is presented to the Director that viable mineral reserves remain.

REPLACEMENT OF TOPSOIL

Topsoil replacement at the site is exempt due to the proposed reclamation land uses of Industrial and Wildlife as per 10 CSR 40-10.050(6)(C)3. However, topsoil and/or subsoil may be placed in designated areas to promote vegetative growth and slope stability to enhance overall reclamation operations at this site.

REVEGETATION

Seeding will be conducted within 24 months after mining of viable mineral reserves is complete in that portion of the permit area based on prior mining practices at the site, unless credible evidence is presented to the Director that viable mineral reserves remain.

**excludes Industrial & Wildlife areas except for voluntary replacement to support reclamation

AVERAGE DEPTH OF REPLACED TOPSOIL (INCHES)

7" (12" w/subsoil)**

D. USE OF LAND WHEN RECLAIMED

Estimate acreage of each land use below, after reclamation	Estimated Acres	
Wildlife (forest or other habitat with livestock excluded)	15	
Agricultural (pasture, cropland and horticultural)		
Development (residential, industrial and recreational)	88	
Water Impoundments (for wildlife, agriculture or development)	58	
PERMIT NUMBER	SITE NAME Heartland Quarry	LAND RECLAMATION PROGRAM ASSIGNED SITE NUMBER

OCT 04 2010

By my signature, I attest to the following:

1. All statements made on this Mine Plan Form are correct, complete, and true, to the best of my knowledge.
2. I, or the company I am authorized to represent, intend to mine in accordance with this Mine Plan form, and in accordance with the Missouri Land Reclamation Act. Sections 444.760 through 444.790, RSMo 2009, and all rules, regulations, orders, decisions and permits of the Missouri Land Reclamation Commission pertaining to my company's surface mining operations.
3. I have obtained the approval of all landowners, (for all lease agreements made after Aug. 28, 1990 on leased land) for all proposed post-mining land uses.
4. I have obtained the approval of all landowners, (for all lease agreements made after Aug. 28, 1990 on leased land) for all proposed seed mixtures.
5. I have a valid agreement with all landowners that gives me the right to grant access to the Director of the Missouri Land Reclamation Commission and authorized representatives, and I grant such access, and further where I have no such right, I have attached signed affidavits from the landowners, granting such access.

SIGNATURE AND NOTARIZATION REQUIRED

SIGNATURE OF APPLICANT <i>Danny Dunny Jr</i>	TITLE <i>Shareholder</i>	DATE <i>Sept. 30, 2010</i>
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Appeared before me this 30th day of September, 2010, to me personally known, who executed the above as their free acts and deeds.

NOTARY PUBLIC EMBOSSER	STATE <i>Missouri</i>	COUNTY (OR CITY OF ST. LOUIS) <i>Perry</i>
SUBSCRIBED AND SWORN BEFORE ME, THIS <i>30th</i> DAY OF <i>September</i> YEAR <i>2010</i>		RUBBER STAMP CLEAR AREA BELOW
NOTARY PUBLIC SIGNATURE <i>Janet L. Cornelius</i>	MY COMMISSION EXPIRES <i>05/14/12</i>	<p>JANET L. CORNELIUS NOTARY SEAL NOTARY PUBLIC - STATE OF MISSOURI COUNTY OF PERRY MY COMMISSION EXPIRES: 5-14-12 COMMISSION # 08413100</p>
NOTARY PUBLIC NAME (TYPED OR PRINTED) <i>Janet L. Cornelius</i>		

FOR DEPARTMENT USE ONLY

APPROVED BY	DATE APPROVED	PERMIT NUMBER	SITE NAME AND NUMBER
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MISSOURI DEPARTMENT OF NATURAL RESOURCES
 LAND RECLAMATION PROGRAM
CONSENT TO ENTRY

RECEIVED
 MO. LAND RECLAMATION COMM.

OCT 04 2010

COMPANY NAME Heartland Materials, LLC	PERMIT NUMBER Pending	SITE NAME(S) OR NUMBER(S) Heartland Quarry
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We, the undersigned, hereby grant to the Director of the State of Missouri Land Reclamation Program and authorized representatives the right of entry upon our lands or surface mining operations for the purpose of making necessary field inspections, covering land reclamation in order to ensure compliance with the Land Reclamation Act, Sections 444.760 to 444.790 RSMo.

**LANDOWNER SIGNATURE
 (FOR GRANTING RIGHT FROM LANDOWNER, WHERE THE OPERATOR HAS NO RIGHT TO GRANT SUCH ENTRY)**

NAME OF LANDOWNER Hoffmeister Real Estate	SIGNATURE <i>Lloyd E Hoffmeister</i>	DATE 9-22-10
--	---	-----------------

COUNTY Cape Girardeau	1/4 SECTION	SECTION SUR 799	TOWNSHIP 32N	RANGE 13E	ACRES 72
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NAME OF LANDOWNER Joe Hoffmeister Family Farms	SIGNATURE <i>Joe R. Hoffmeister</i>	DATE 9-22-10
---	--	-----------------

COUNTY Cape Girardeau	1/4 SECTION	SECTION SUR 2192	TOWNSHIP 32N	RANGE 13E	ACRES 89
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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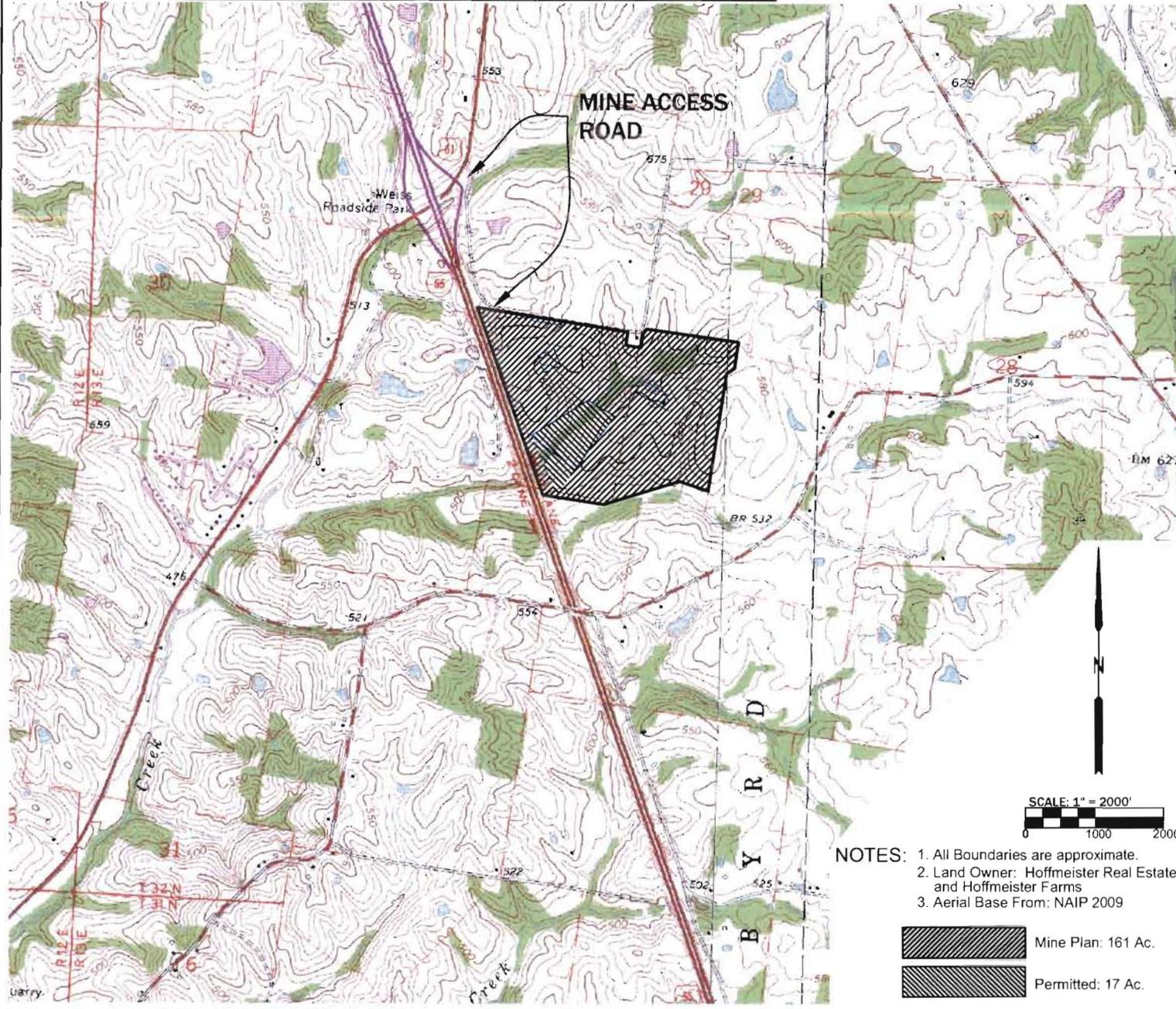
NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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NAME OF LANDOWNER	SIGNATURE	DATE
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COUNTY	1/4 SECTION	SECTION	TOWNSHIP	RANGE	ACRES
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REVISIONS				
ZONE	REV	DESCRIPTION	DATE	APPROVED



- NOTES:
1. All Boundaries are approximate.
 2. Land Owner: Hoffmeister Real Estate and Hoffmeister Farms
 3. Aerial Base From: NAIP 2009

-  Mine Plan: 161 Ac.
-  Permitted: 17 Ac.

HEARTLAND QUARRY
SUR 799 & 2192
T-32N, R-13E
CAPE GIRARDEAU COUNTY

GREDELL Engineering Resources, Inc.
ENVIRONMENTAL ENGINEERING

LAND **AIR** **WATER**
1505 East High Street Telephone: (573) 659-9078
Jefferson City, Missouri 65101 Facsimile: (573) 659-9079

SITE LOCATION MAP

DATE 10/2010	SCALE AS SHOWN	FIGURE XXXXXXXXXX	REV
DRAWN BY: WJA	APPROVED BY: MCC	PROJECT NO. HEARTLAND QUARRY	



Jeremiah W. (Jay) Nixon, Governor • Kip A. Stetzler, Acting Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

File: Heartland Materials, L.L.C., Permit # 1072 (Pending), Heartland Quarry, Permitting Documents (Public Notice)

CERTIFIED MAIL 7007 3020 0003 2220 4374
RETURN RECEIPT REQUESTED

October 18, 2010

Mr. Danny Dumey
Heartland Materials, L.L.C.
P.O. Box 558
Benton, Missouri 63736

Dear Mr. Dumey:

The Missouri Department of Natural Resources, Land Reclamation Program deems your new permit application complete. Be aware, within the next ten days according to the Code of State Regulations at 10 CSR 40-10.020(2)(H) that Heartland Materials, L.L.C. must advertise a notice of intent to operate a surface mine in a newspaper qualified to publish public notices, pursuant to section 493.050 RSMo., in the county where the mine area is located. In addition, within the next ten days, Heartland Materials, L.L.C. must also send via certified mail a notice of intent to operate a surface mine. Address these certified letters to the governing body of the county or city in which the proposed mine plan area is located and to the last known address of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan area.

If some circumstance prevents Heartland Materials, L.L.C. from satisfying this critical ten-day window for advertising and mailing the notice of intent to operate a surface mine, please contact me at the telephone number listed near the end of this letter, immediately. Thank you for your attention to satisfy public notification requirements concerning your new permit application.

After the public notice has been published and ran for once a week for four consecutive weeks we will need the publishers' affidavit along with a copy of the public notice. We will also need the green card from the certified mail verifying delivery along with a copy of the letter sent to the County Commissioners and all other adjoining or adjacent landowners.

Heartland Materials
October 18, 2010
Page 2

If you have any questions concerning the content of this letter, please contact me by telephone at (573) 751-4041 or in writing at P.O. Box 176, Jefferson City, Missouri 65102-0176.

Sincerely,

LAND RECLAMATION COMMISSION

A handwritten signature in cursive script, appearing to read "Chris Thiltgen". The signature is written in black ink and is positioned above the printed name and title.

Chris Thiltgen
Environmental Specialist

CT:ts

NOV 22 2010

PUBLIC NOTIFICATION LETTER NEW PERMIT

SEND TO ALL APPLICABLE PARTIES VIA CERTIFIED MAIL – 10 CSR 40-10.020(2)(I)

This letter shall be sent to all governing bodies of counties or cities in which the proposed area is located, and the last known address of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan boundary. Distribute the public notification letter after the department's Land Reclamation Program informs you to do so via certified mail. If the permitting activity involves anything other than a new permit, please contact the department's Land Reclamation Program for a public notification letter that will suit the permitting activity.

Certified Mail # 7005 0390 0000 0979 1750

RETURN RECEIPT REQUESTED

October 27, 2010

Hon. Gerald W. Jones, Presiding Commissioner
One Barton Square
Jackson, MO 63755

Dear Presiding Commissioner:

Because you are either an adjacent landowner to a proposed surface mine plan area or you are the governing body of the counties or cities in which a proposed surface mine plan boundary is located, as required by section 444.772.10, of the Missouri Revised Statutes, you are being notified that:

Heartland Materials, LLC, P.O. Box 558, Benton, MO, 63736, has applied for a permit from the Department of Natural Resources, Land Reclamation Commission, to mine limestone on 161 acres of land located in Cape Girardeau County, SUR-799 & 2192, T-32N, R-13E. This operation will be conducted during the approximate dates of December 1, 2010 to December 31, 2110.

Adjacent landowners please note this does not mean your land is to be mined unless you have entered into such an agreement with the above company.

Written comments or a request for a hearing or an informal public meeting may be made by any person with a direct, personal interest in one or more of the factors that the Missouri Land Reclamation Commission may consider in issuing a permit as required by The Land Reclamation Act, sections 444.760 to 444.790, RSMo, or whose health, safety, or livelihood will be unduly impaired by the issuance of a permit regarding items such as permitting and reclamation requirements, erosion and siltation control, excavations posing a threat to public safety, or protection of public road rights-of-way. If a hearing is held, the Commission has the ability to consider if the applicant has demonstrated a pattern of noncompliance with other environmental protection laws and regulations administered by the Missouri Department of Natural Resources.

Written comments, requests for a meeting or hearing shall be sent to: Director, Land Reclamation Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102, within fifteen (15) days following the final public notice publication date.

Heartland Materials, LLC – Cape Girardeau County

Physical Landowner

Lloyd Hoffmeister Real Estate
P.O. Box 331
Jackson, MO 63755

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Joe Hoffmeister & Hoffmeister Farms
P.O. Box 331
Jackson, MO 63755

Jackson
The Cash-Book Journal
P.O. Box 369
210 W. Main
Jackson, MO 63755
573-243-3515
573-243-3517 FAX

Governmental Agencies

11-4 Gerald W. Jones
Presiding Commissioner
One Barton Square
Jackson, MO 63755

Adjacent Landowners

11-3 William Heisserer Trust
2259 State Highway Y
Jackson, MO 63755

11-6 Hoffmeister Stake & Handle Co.
P.O. Box 331
Jackson, MO 63755

11-4 Mary Katherine Moonier Trust
733 State Highway Y
Jackson, MO 63755

inquiries only

Southeast Missourian
573-388-2760
573-339-0815 FAX

11-8 Jeremy Joe Laurentius
1565 County Road 601
Jackson, MO 63755

301 Broadway
P.O. Box 699
Cape Girardeau, MO
63702

Re-sust
11-8
rec'd 11-12 Saxony Lutheran High School
804 N. Cape Rock Dr.
Cape Girardeau, MO 63701

Address?
2004 Saxony Ln
Jackson, MO
63755

11-4 Darrel & Carla Stadt
2169 State Highway Y
Jackson, MO 63755

11-10 Elliott Real Estate Inc.
P.O. Box 909
Sikeston, MO 63801

11-4 Alvin Franke Trust
742 County Road 303 ✓
Jackson, MO 63755

11-4 Judith Franke Trust ✓
742 County Road 303
Jackson, MO 63755

11-6 Bill & Linda Hess
1002 County Road 303
Jackson, MO

Supplemental Landowner List (also to be notified)

11-3 Noel Botsch Trust
2051 State Highway Y
Jackson, MO 63755

Refused Terry & Sheila Steele
2055 State Highway Y
Jackson, MO 63755

11-4 Carl and Mary Talley Trust
822 Old Cape Road
Jackson, MO 63755

11-6 James Turnbough
266 Phoenix Trail
Jackson, MO 63755

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MO. LAND RECLAMATION COMM.

NOV 22 2010

Publisher's Affidavit

State of Missouri) ss.
County of Cape Girardeau)

Before me, the undersigned, a Notary Public, this day personally

came **Nancy Hutchings**

who, being first duly sworn, according to law upon his/her oath,

says that he/she is Bookkeeper
of the Southeast Missourian, a newspaper published in the city
of Cape Girardeau, in Cape Girardeau County and State of
Missouri, and that the publication, of which the annexed is
a true copy, was published in said paper on the

- 27th day of October 2010
- 03rd day of November 2010
- 10th day of November 2010
- 17th day of November 2010

(Appearing once day on the same day of each week) and further says that said
Newspaper is a daily newspaper printed and published in the City of Cape
Girardeau and State of Missouri and has a general circulation in the City of Cape
Girardeau and State of Missouri and has a general circulation in the City and County
of Cape Girardeau and State of Missouri, and has held such general circulation in said
county continuously, regularly and consecutively for a period of more than ten years
next before the date of the first publication mentioned above, and has been likewise
continuously, regularly and consecutively published up to the time of the making of this
affidavit for a period of more that ten years next before the date of the jurat to this
publisher's affidavit or proof of publication, and that the rate charged therefore is not in
excess of the rate allowed by laws of the State of Missouri, and that said Southeast
Missourian has been admitted to the United States Post Office as second class matter
in the City of Cape Girardeau, Missouri; and that said newspapers has a list of bona fide
subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for
a subscription for a definite period of time, and that said newspaper and its publishers
have complied with each and every provision of the laws of Missouri and particularly with
the provisions of Section 13775 of the Revised Statutes of Missouri, 1929, as amended, and
approved on May 14, 1931, as appears in the Laws of Missouri, 1931 at page 303.

Nancy Hutchings

Subscribed and sworn to before me this 17th day of

November 2010

Tonja Hemphill
Notary Public

Qualified and commissioned for a term expiring

October 12, 2013

Publication Fee \$522.00

Cape Girardeau, MO _____

Southeast Missourian

RECEIVED
MO. LAND RECLAMATION COMM.

NOV 22 2010

**PUBLIC NOTICE OF SURFACE MINING APPLICATION
NEW PERMIT**

Heartland Materials, LLC, P.O. Box 558, Benton, MO, 63736, has applied
for a permit from the Department of Natural Resources, Land Reclama-
tion Commission, to mine limestone on 161 acres of land located in Cape
Girardeau County, SUR-799 & 2192, T-32N, R-13E. This operation will
be conducted during the approximate dates of December 1, 2010 to De-
cember 31, 2110.

Written comments or a request for a hearing or an informal public meet-
ing may be made by any person with a direct, personal interest in one or
more of the factors that the Missouri Land Reclamation Commission may
consider in issuing a permit as required by The Land Reclamation Act,
sections 444.760 to 444.790, RSMo, or whose health, safety, or liveli-
hood will be unduly impaired by the issuance of a permit regarding items
such as permitting and reclamation requirements, erosion and siltation
control, excavations posing a threat to public safety, or protection of pub-
lic road rights-of-way. If a hearing is held, the Commission has the ability
to consider of the applicant has demonstrated a pattern of noncompliance
with other environmental protection laws and regulations administered by
the Missouri Department of Natural Resources.

Written comments, request for a meeting or a hearing shall be sent to: Di-
rector, Land Reclamation Program, Missouri Department of Natural Re-
sources, P.O. Box 176, Jefferson City, MO 65102, within fifteen (15) days
of the last date of publication of this notice.

(October 27, 2010, November 3, 10, 17, 2010/ 96402)

TONJA HEMPHILL
Notary Public - Notary Seal
State of Missouri
Commissioned for Cape Girardeau County
My Commission Expires: October 12, 2013
Commission Number: 09881343

**PUBLIC NOTICE OF
SURFACE MINING
APPLICATION
NEW PERMIT**

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Written comments, request for a meeting or a hearing shall be sent to: Director, Land Reclamation Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102, within fifteen (15) days of the last date of publication of this notice.

Oct. 27, Nov. 3, 10, 17, 2010

AFFIDAVIT OF PUBLICATION

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NOV 22 2010

County of Cape Girardeau)) SS.
State of Missouri))

I, David Bloom, being duly sworn according to law, state that I am the Assistant Publisher of the Cash-Book Journal, a weekly newspaper of general circulation in the county of Cape Girardeau where located; which has been admitted to the Post Office as second-class matter in the City of Jackson, the city of publication; which newspaper has been published regularly and consecutively for a period of twenty-seven years and has a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050 Revised Statutes of Missouri, 2000. The affixed notice appeared in said newspaper on the following consecutive weeks (issues).

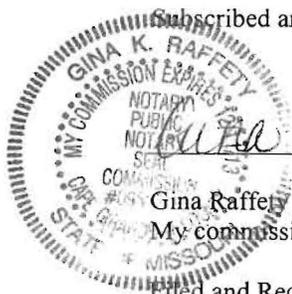
FROM _____ October 27, 2010
TO _____ November 17, 2010
FIRST INSERTION _____ October 27, 2010
SECOND INSERTION _____ November 3, 2010
THIRD INSERTION _____ November 10, 2010
FOURTH INSERTION _____ November 17, 2010
FIFTH INSERTION _____

SIGNED

David Bloom

David Bloom
(Assistant Publisher)

Subscribed and sworn to me this November 17, 2010



Gina K. Raffety _____, Notary Public.

Gina Raffety
My commission expires December 11, 2013.

Filed and Recorded this November 17, 2010

Printer's Fee \$277.50

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carl and Mary Talley Trust
822 Old Cape Road
Jackson, MO 63755

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X Carl Talley Addressee
B. Received by (Printed Name) Date of Delivery
C. Date of Delivery 11-2-10

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

RECEIVED
MO. LAND RECLAMATION COMM.

NOV 22 2010

3. Service Type Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1880

PS Form 3811, February 2004

Domestic Return Receipt

11-4

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bill & Linda Hess
1002 County Road 303
Jackson, MO 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1859

PS Form 3811, February 2004

Domestic Return Receipt

11/6

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired:
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Hoffmeister Stake & Handle Co.
P.O. Box 331
Jackson, MO 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1774

PS Form 3811, February 2004

Domestic Return Receipt

11/6

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee

X Carl Hoffmeister Agent Addressee

B. Received by (Printed Name) C. Date of Delivery

Carl Hoffmeister 11-3-10

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

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MO. LAND RECLAMATION COMM.

NOV 22 2010

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeremy Joe Laurentius
1565 County Road 601
Jackson, MO 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1750

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
Shawni L. Medico
- B. Received by (Printed Name) C. Date of Delivery
 Jeremy Joe Laurentius 11/22/10
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
 (NO POSTAL RETURN INFORMATION COMM.)

NOV 22 2010

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

7005 0390 0000 0979 1750

Domestic Return Receipt

102595-02-M-1540

11-8

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

James Turnbough
266 Phoenix Trail
Jackson, MI 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1897

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
Eric Turnbough
- B. Received by (Printed Name) C. Date of Delivery
 Eric Turnbough 11-3-10
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

NOV 22 2010

Eric Turnbough

Domestic Return Receipt

11/6

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gerald W. Jones
Presiding Commissioner
One Barton Square
Jackson, MO 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1750

PS Form 3811, February 2004

Domestic Return Receipt

11-4

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
Shawni L. Medico
- B. Received by (Printed Name) C. Date of Delivery
 Shawni L. Medico 11/21/10
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

NOV 22 2010



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FAQs

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Label/Receipt Number: **7005 0390 0000 0979 1842**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 12:14 pm on November 02, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 02, 2010, 12:14 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 02, 2010, 8:59 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:36 am, JEFFERSON CITY, MO 65101**

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 MO. LAND RECLAMATION COMM.
 NOV 22 2010

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <input checked="" type="checkbox"/> <i>Judy Franke</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Judith Franke Trust 742 County Road 303 Jackson, MO 63755		B. Received by (Printed Name) <i>Judy Franke</i>	
2. Article Number (Transfer from service label) PS Form 3811, February 2004		C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No RECEIVED MO. LAND RECLAMATION COMM. NOV 22 2010	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
		7005 0390 0000 0979 1842	
		Domestic Return Receipt 11-4	
		102595-02-M-1540	



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Search Results

Label/Receipt Number: **7005 0390 0000 0979 1811**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 3:57 pm on November 02, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 02, 2010, 3:57 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 02, 2010, 8:59 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:37 am, JEFFERSON CITY, MO 65101**

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NOV 22 2010

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <i>x Carla Stadt</i>	
		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
		B. Received by (Printed Name) <i>Carla Stadt</i>	
		C. Date of Delivery NOV 22 2010	
1. Article Addressed to: Darrel & Carla Stadt 2169 State Highway Y Jackson, MO 63755		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No MO. LAND RECLAMATION COMM.	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7005 0390 0000 0979 1811	
PS Form 3811, February 2004		Domestic Return Receipt 11-4	



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Search Results

Label/Receipt Number: **7005 0390 0000 0979 1781**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

Go >

Your item was delivered at 4:08 pm on November 02, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 02, 2010, 4:08 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 02, 2010, 8:59 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:39 am, JEFFERSON CITY, MO 65101**

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 MO. LAND RECLAMATION COMM.
 NOV 22 2010

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mary Katherine Moonier Trust
 733 State Highway Y
 Jackson, MO 63755

2. Article Number

(Transfer from service label)

7005 0390 0000 0979 1781

PS Form 3811, February 2004

Domestic Return Receipt

11-4

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Mary Katherine Moonier Agent Addressee

B. Received by (Printed Name)
Mary Katherine Moonier

C. Date of Delivery
 NOV 22 2010

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
753 State Hwy Y

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

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 MO. LAND RECLAMATION COMM.



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Search Results

Label/Receipt Number: **7005 0390 0000 0979 1903**
 Expected Delivery Date: **November 10, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

Go >

Your item was delivered at 1:33 pm on November 10, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 10, 2010, 1:33 pm, JACKSON, MO 63755**
- **Acceptance, November 08, 2010, 4:24 pm, JEFFERSON CITY, MO 65101**

Notification Options

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<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Amelia Maastfield</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Amelia Maastfield</i></p> <p>C. Date of Delivery NOV 22 2010</p>
<p>1. Article Addressed to:</p> <p>Saxony Lutheran High School 2004 Saxony Ln. Jackson, MO 63755</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>RECEIVED MO. LAND RECLAMATION COMM. NOV 22 2010</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 0390 0000 0979 1903</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 11-12 102595-02-M-1540</p>	



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Search Results

Label/Receipt Number: **7005 0390 0000 0979 1835**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail[®]**
 Service(s): **Certified Mail[™]**
 Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

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Your item was delivered at 12:14 pm on November 02, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 02, 2010, 12:14 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 02, 2010, 8:59 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:36 am, JEFFERSON CITY, MO 65101**

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MO. LAND RECLAMATION COMM.

NOV 22 2010

Notification Options

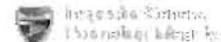
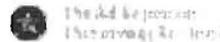
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<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Judy Franke</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>Judy Franke</i> NOV 22 2010</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No MO. LAND RECLAMATION COMM.</p>
<p>1. Article Addressed to:</p> <p>Alvin Franke Trust 742 County Road 303 Jackson, MO 63755</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 0390 0000 0979 1835</p>
<p>PS Form 3811, February 2004</p>	<p>Domestic Return Receipt 11-4 102595-02-M-1540</p>



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Search Results

Label/Receipt Number: **7005 0390 0000 0979 1866**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

Track & Confirm

Enter Label/Receipt Number.

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Your item was delivered at 3:54 pm on November 01, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 01, 2010, 3:54 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 01, 2010, 8:49 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:33 am, JEFFERSON CITY, MO 65101**

RECEIVED
 MO. LAND RECLAMATION COMM.
 NOV 22 2010

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Robin Botsch</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Robin Botsch</i></p> <p>C. Date of Delivery RECEIVED MO. LAND RECLAMATION COMM. NOV 22 2010</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Noel Botsch Trust 2051 State Highway Y Jackson, MO 63755</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 0390 0000 0979 1866</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 11-3 102595-02-M-1540</p>	



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Label/Receipt Number: **7005 0390 0000 0979 1767**
 Expected Delivery Date: **November 1, 2010**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
Return Receipt
 Status: **Delivered**

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Enter Label/Receipt Number.

Go >

Your item was delivered at 3:48 pm on November 01, 2010 in JACKSON, MO 63755.

Detailed Results:

- **Delivered, November 01, 2010, 3:48 pm, JACKSON, MO 63755**
- **Arrival at Unit, November 01, 2010, 8:49 am, JACKSON, MO 63755**
- **Acceptance, October 29, 2010, 9:40 am, JEFFERSON CITY, MO 65101**

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2. Article Number <small>(Transfer from service label)</small>	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
PS Form 3811, February 2004	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes 7005 0390 0000 0979 1767 Domestic Return Receipt 11-3 102595-02-M-1540



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- **Arrival at Unit, November 01, 2010, 7:39 am, SIKESTON, MO 63801**
- **Acceptance, October 29, 2010, 9:37 am, JEFFERSON CITY, MO 65101**

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NOV 22 2010

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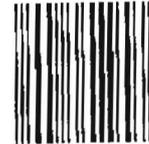
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) DARRELL GRUBBS</p> <p>C. Date of Delivery NOV 22 2010</p>
<p>1. Article Addressed to:</p> <p>Elliott Real Estate Inc. P.O. Box 909 Sikeston, MO 63801</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 0390 0000 0979 1828</p>

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Resources, Inc
1505 E. High Street
Jefferson City, MO 65101

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Terry & Sheila Steele
2055 State Highway Y
Jackson, MO 63755

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11-1-10
DF

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REQUESTED**

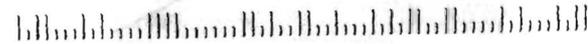
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MO. LAND RECLAMATION COMM

NOV 22 2010

REFUSED
UNABLE TO FORWARD

EO: 65101402805 *1418-03447-03-27

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Jeremiah W. (Jay) Nixon, Governor * Kip A. Stetzler, Acting Director

DEPARTMENT OF NATURAL RESOURCES

dnr.mo.gov

November 29, 2010

Mr. Danny Dumey
Heartland Materials, L.L.C.
P.O. Box 558
Benton, Missouri 63736

Dear Mr. Dumey:

Due to public notification requirements concerning the new permit application for Heartland Quarry in Cape Girardeau County, I received several letters requesting that a public meeting be held. I am aware that you are able to view these letters on the Missouri Department of Natural Resources website. If we receive additional letters we will post them to the website. The "Land Reclamation Act" at 444.773.3, RSMo, reads in part,

"...If a public meeting is requested pursuant to this chapter and the applicant agrees, the director shall, within thirty days after the time for such request has passed, order that a public meeting be held..."

A public meeting usually involves all concerned parties sitting down in a round table type of discussion in an attempt to resolve issues expressed by concerned citizens. After the meeting, a recommendation is issued. The recommendation states whether or not the new permit application should be issued. There is also an attachment of the issues discussed at the public meeting. The choice of electing to hold a public meeting or to respectfully decline to hold a public meeting is for the company to decide.

We have an obligation to respond to the people requesting the public meeting. Does Heartland Materials, L.L.C., agree to hold the requested public meeting? If Heartland Materials, L.L.C. elects to entertain a public meeting, most likely the meeting would be scheduled in mid-December. Your prompt reply to this request will enable staff to prepare for the public meeting at the soonest possible opportunity. Thank you for your attention to this matter.

If you have any questions or concerns regarding the information in this letter please do not hesitate to contact me by telephone at (573) 751-4041.

Sincerely,

LAND RECLAMATION COMMISSION

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

ML:ct:tb

c: Mikel C. Carlson, R.G., Gredell Engineering Resources

RECEIVED
MO LAND RECLAMATION COMM.
NOV 30 2010

November 29, 2010

Heartland Materials, LLC
P. O. Box 558
Benton, MO 63736-0558

Department of Natural Resources
ATTENTION: Mike Larsen, R. G.
P. O. Box 176
Jefferson City, MO 65102-0176

Dear Mr. Larsen:

We at Heartland Materials, LLC are in receipt of your letter dated November 29, 2010 pertaining to hosting a public meeting. We respectfully decline the notion of a public meeting. We feel that opening ourselves to the mass public would not produce any desirable outcome.

Heartland Materials understands the sensitivity and concerns being generated by our request for a permit. We have and will continue to expend considerable time and energy meeting individually to alleviate concerns in a more productive setting. I have personally reviewed letters of public comment and will continue to do so.

We at Heartland Materials are committed to being responsible in our planning and will address the concerns of our neighbors as we move forward.

Sincerely,

HEARTLAND MATERIALS, LLC



Danny Dumey, Jr.



Jeremiah W. (Jay) Nixon, Governor

Sara Parker Pauley, Director

DEPARTMENT OF NATURAL RESOURCES

dnr.mo.gov

File: Heartland Materials, L.L.C., New Permit (Pending), Permit #1072, Public Comments

January 7, 2011

To All Petitioners

Dear Petitioners,

Thank you for your letter requesting a public meeting or a formal hearing involving the proposed new permit application regarding Heartland Materials, L.L.C., Heartland Quarry Site in Cape Girardeau County. Heartland Materials respectfully declined 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>

January 7, 2011
Letter to Petitioners
Page Three

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

A handwritten signature in cursive script, appearing to read "Mike Larsen".

Mike Larsen, R.G.
Staff Director

ML:ct:ts

Mailing List

Heartland Materials, L.L.C.
Attn: Danny Dumey
P.O. Box 558
Benton, Missouri 63736

Husch Blackwell
Attn: Robert Wilkinson
The Plaza in Clayton
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105

Representative Scott A. Lipke
P.O. Box 736
Jackson, Missouri 63755

Saxony Lutheran High School
2004 Saxony Drive
Jackson, Missouri 63755

Abby Petzoldt
413 Eli Drive
Jackson, Missouri 63755

Gerald W. Jones
Presiding Commissioner
1 Barton Square
Jackson, Missouri 63755

Richard and Mary Moonier
753 State Hwy Y
Jackson, Missouri 63755

Darrel and Carla Stadt
2169 State Hwy Y
Jackson, Missouri 63755

Alvin and Judith Franke
742 County Rd. 303
Jackson, Missouri 63755

Lathrop and Gage, L.L.P.
Attn: David Shorr, Attorney at Law
314 East High Street
Jefferson City, Missouri 65101

Gredell Engineering Resources, Inc.
Attn: Mike Carlson
1505 East High Street
Jefferson City, Missouri 65101

Public Water Supply District No. 1
Cape Girardeau and Perry County, Mo.
6386 U.S Hwy 61
Jackson, Missouri 63755

Enclosed in this packet are certain letters for the commission's information including examples of form letters received. All letters received are posted on the Web at:

<http://dnr.mo.gov/env/fruitland.htm>

CAPITOL ADDRESS:
State Capitol - Room 404 B
Jefferson City, MO 65101-6806
Tele: 573-751-6662
Fax: 573-522-6191

DISTRICT ADDRESS:
P.O. Box 736
Jackson, MO 63755
Tele: 573-335-0706

PLEASE RESPOND TO CAPITOL
ADDRESS.



Scott A. Lipke
MISSOURI HOUSE OF REPRESENTATIVES
DISTRICT 157

COMMITTEES:
Chairman, Crime Prevention
Appropriations - General Administration
Judiciary
Special Committee on Transportation &
Infrastructure
Special Committee on Governmental
Accountability & Ethics
SCOTT.LIPKE@HOUSE.MO.GOV

November 8, 2010

Mr. Kip A. Stetzler
Acting Director
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

RECEIVED
MO. LAND RECLAMATION COMM.
NOV 15 2010

Dear Mr. Stetzler,

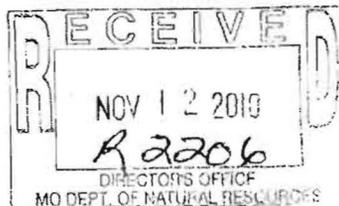
I have recently been contacted by several constituents who are concerned about two (2) possible quarries locating in the Fruitland/Jackson area. It is my understanding that Heartland Materials has applied for a mining permit and that Strack Excavating is in the process of applying.

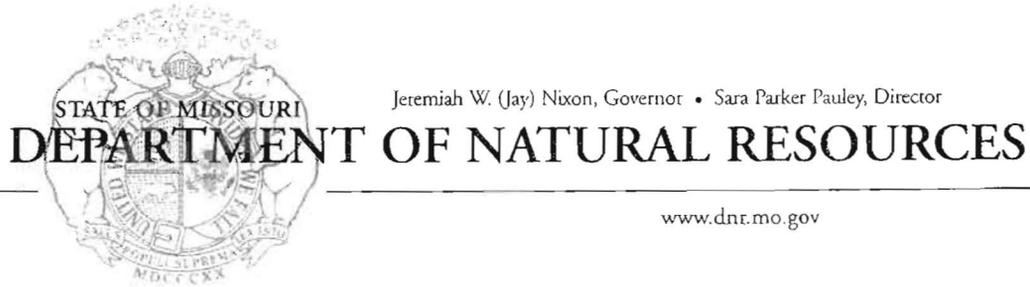
As Representative of the 157th District, I share the concerns of my constituents. The health, safety, and livelihood of the residents and students in this area are of utmost importance. With regards to the Heartland Materials application, I am requesting that an informal public meeting be held so that both sides can state their positions and possibly produce an outcome which is satisfactory to both sides. If the operators refuse the informal public meeting, I request a formal hearing be held.

I appreciate your time in this matter. If you have any questions or comments, please feel free to call me at 573-243-8463. Thank you in advance for your prompt attention to this matter, and your continued cooperation.

Sincerely,

Handwritten signature of Scott A. Lipke in black ink.
Scott A. Lipke
State Representative
District 157





www.dnr.mo.gov

January 5, 2011

The Honorable Scott A. Lipke
Missouri House of Representatives
PO Box 736
Jackson, MO 63755

Dear Representative Lipke:

Thank you for your letter requesting a public meeting or a formal hearing involving the proposed new permit application regarding Heartland Materials, L.L.C., Heartland Quarry Site in Cape Girardeau County. Heartland Materials respectfully declined 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, Bennet Springs and Roaring River Conference rooms, 1731 East Elm, Lower Level, Jefferson City, Missouri. A Web link to a map illustrating the location of this meeting is: [Elm Street Office Buildings - DNR](#). We also enclose a map for your reference locating the meeting facility.

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.

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.

The Honorable Scott A. Lipke
January 5, 2011
Page Two

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. I am enclosing with this letter a copy of that recommendation and Attachment 1 which is a supplement to the recommendation. A Web 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>.

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.
Staff Director

ML:ct:tb

Enclosures: Directors Recommendation, Attachment 1, Map of meeting location

NOV 15 2010

November 13, 2010

Dear Land Reclamation Board,

I would like to voice my strong opposition to the Heartland Materials quarry that has applied for a permit to operate in my Fruitland community. I have many concerns that affect me directly concerning this operation.

I am very concerned for the well-being of our students at Saxony High School and the North Elementary school in Fruitland. Not only do they NOT need to hear incessant rumblings and explosions, but they do not need to suffer dust fallout that such explosions would leave. I can't imagine allowing students to do outside activities like cross country and track with such an operation as the quarry right adjacent to the school.

What will this do to the wells from which we get our water? We get our water from Public Water Supply District #1 with several wells nearby the proposed quarry location. I urge you to complete the proper studies to determine how this could possibly affect our water supply in the future, especially considering the unpredictable Karst typography we live in.

My wife has severe asthma. I truly have deep concerns as to air quality and how it will affect her. Added dust would be a burden to her breathing.

I am also concerned about the dust from the huge truck traffic plus rocks and gravel dropped on the pavement. That county road is not designed for the excessive weight of those gravel trucks.

As a citizen with a right to protect my community's health and safety, I adamantly oppose this quarry. I respectfully ask that an informal public hearing take place to discuss these issues. I also request that a formal courtroom hearing be granted so that further evidence could be presented to the Land Reclamation Board.

Thank you for your consideration.

Sincerely,



Norvald Reppen
479 Mooseberry Lane
Jackson, MO 63755



**PUBLIC WATER SUPPLY DISTRICT NO. 1
OF CAPE GIRARDEAU COUNTY & PERRY COUNTY, MO.**

6386 US HWY 61
JACKSON, MISSOURI 63755
(573) 243-7111

PERMIT UNIT
MO. LAND RECLAMATION COMM

NOV 26 2010

November 23, 2010

Director
Land Reclamation Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Re: Request for Meeting Regarding Heartland Materials, LLC

Dear Director,

We are writing this letter to request a public hearing on the quarry being proposed by Heartland Materials in the Fruitland Missouri area. Also, we would like to request that the Department consider requiring Heartland Materials to obtain a geological study in order to receive their permit for mining.

We serve over 2,400 homes in the region and feel that by Heartland Materials providing the DNR with a geological study, it will help show the possible affect the quarry would have on the community and the community's water needs in particular.

The Water District Board of Directors, Engineer, and Staff are concerned for our wells located within the Fruitland community. History has shown that our wells are sensitive to geological activity. One of our well has produced "muddy water" after recorded geological activity, and had to be pumped directly to a ditch for three weeks, until clearing.

Other instances of temporary "clouding" of water in personal homeowner's wells have been brought to our attention during drilling of our most recent well sites. The District also has substantial footage of aging pipelines in the area that may be affected by the quarry. Older pipes and fittings may be affected by ground vibrations and movement, thus, weakening to the point of leaking or bursting. These repairs could result in considerable expense to the district and it customers in the long run.

NOV 26 2010

PWSD#1
November 23, 2010
Page 2

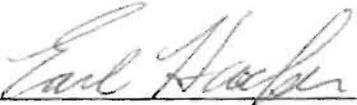
Our concerns regarding the quarry's blasting in the area, seems to be thus warranted. The blasting may cause disturbance to the geologic strata structure in which our wells draw water from similar to those caused by past drilling and ground tremors.

We as the Board of Directors need to protect the good quality of water that is to be provided to our customers first and foremost. We would like to know both the DNR's and Heartland Material's position on what affects the quarry operation might have on our existing pipeline and wells.

Thank you for your consideration regarding a public hearing to voice our concerns.

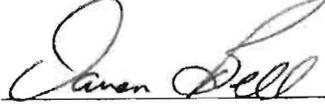
Sincerely,

The Board of Directors, Public Water Supply District #1


Earl Hacker, President


Robert Leible, Board Member


Bruce Lorenz, Board Member

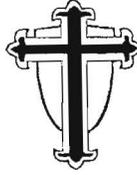

Darren Bell, Board Member

KSS

cc: Board of Directors, PWSD#1

NOV 26 2010

Saxony Lutheran High School
2004 Saxony Drive
Jackson, MO 63755
Phone: 573.204.7555
Fax: 573.204.7445
e-mail: office@saxonylutheranhigh.org
saxonylutheranhigh.org



Dr. Craig Ernstmeier, Principal
Sam Sides, Activities Director
Judith Fuchs, Counselor
Rhonda Wessel, Director of Development

Director, Land Reclamation Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

November 22, 2010

Land Reclamation Program Director:

Please consider this letter the official Saxony Lutheran High School correspondence in response to the potential quarry being applied for by Heartland Materials, LLC on 161 acres directly south of our school. I know several school and church families have shared their individual thoughts through correspondence. I am writing to represent the perspective of Saxony Lutheran High School. I am requesting an informal public meeting with the Heartland Materials group. I also am officially requesting a formal hearing in this matter. I believe the health and safety of our students, faculty and school families as well as the livelihood of our school will be significantly and negatively impacted if a quarry does business in close proximity to our school.

Saxony Lutheran High School is a thriving regional high school supported by 25 churches within a 50 mile radius. We serve students from both Missouri and Illinois and have been a tremendous asset to the entire southeast Missouri community. We are in our eleventh year as a school that has grown every year of our existence. We are in brand new facilities that were constructed in 2004 and due to our growth, were expanded upon in 2009. We have 187 students from various faiths and backgrounds. We are a flourishing school, we are a growing school, and with that, there is no reason to believe if we continue on the track we have set before us, we can grow to a school of well over 300 students. Our business, our school, our ministry is a 7 million dollar entity that has positively added to the overall culture of education here in southeast Missouri.

I am very concerned about the health of our students and faculty. We are located on a hill, so wind blows the majority of the time, mainly out of the south or southwest direction. This would direct Heartland Material's fugitive dust, in any capacity, directly onto our 42 acres. We have 8 outdoor MSHSAA sponsored activities in boys and girls soccer, boys and girls track, boys and girls cross country, softball and baseball that would be adversely affected. Many of these sports include a great deal of aerobic conditioning which requires a great deal of lung capacity and the intake of clean air. We have visiting spectators as well as home team spectators and officials who come to Saxony to participate in these sports that could also be negatively impacted by fugitive dust. Our feeder school children join in a play day on campus in May that involves well over 300 students in attendance with teachers and supportive parents in addition to that number. This is a tremendous recruiting tool for us to get younger children on campus to hopefully enter our doors

NOV 26 2010

as a student in the future. They may move their location if this quarry goes in. We have physical education classes that go outside for class. We have art classes that draw outside. We have an outdoor classroom in our science department that students monitor throughout the year. We also have projects that are completed outdoors in the areas of social studies, math and religion as well. English takes the time on a pleasant day just to go outside to read. I question whether we will be able to continue on business as usual with fugitive dust, blasting and the noise of a quarry so close. We open screened windows in our classes to save on utility costs that would have to stay closed so fugitive dust would not enter the building through a window. Regardless we will have additional maintenance costs to keep our school as clean as we have in the past. This does not even take into account the number of students who have asthmatic or respiratory problems. A quarry so close will negatively impact the health of those who are on campus.

I am very concerned about the safety of our students and faculty. I understand it is typical in a quarry that the 'heavy' times of traffic during the day are first thing in the morning and right before closing time. These times correlate highly with the 'heavy' traffic times for a high school. The numbers of trucks who will be entering the roadway during these heavy times present grave concerns for me and the inexperienced student driver that is driving over the hill at the same time. This, in addition to the experienced parent/faculty driver who will cross paths with a heavy truck trying to get to their destination quickly so they can make more runs. I am concerned that the water we currently use will be adversely affected by the blasting and other quarry activities as well. A quarry so close will negatively impact the safety of those who travel to and are on our campus.

Finally, I am very concerned about the livelihood of our school. As shared earlier, we have been a thriving, growing school that has a lot of promise in the future. This quarry, with its close proximity, will shake and crack the foundation and structural integrity of the new school building. The blasting during the day will not provide an educational setting conducive to learning. Imagine taking an algebra test and all of the sudden, your seat shakes. You are no longer focused on that test. If a student has this occur enough over their four years here, their grades will be adversely affected. These poorer grades will then lead to lower tuition assistance at the college level (where most of our students enroll) because their grade point average was not high enough. The loud noise a quarry makes also will not make for a very conducive learning environment during the day or a pleasant spectator experience after school at ball games.

This land was purchased almost ten years ago through donations and we have been occupying the school building for the last 7 years. One of the greatest attributes to our school is the central location and easy access for our students, who in the past have come down from Sainte Genevieve and up from Sikeston. This commitment of over an hour travel one way shows how important this school is to a lot of people. We have tens of thousands in our Lutheran churches supporting us and we continue to have more students from other denominations come in each year. We are not trying to lead an anti quarry campaign in general, just the one that is looking to set up their business less than 100 yards from our property, the property we have been at, and the one we will continue to be at in the future. Saxony has had a lasting impact on those who have been able to be a part of this school. We are proud of our school on top of the hill.

NOV 26 2010

For the reasons cited, I again request an informal public meeting with the Heartland Materials group. I also request a formal hearing in this matter. I truly believe the health and safety of our students, faculty and school families as well as the livelihood of our school will be significantly and negatively impacted with the addition of a quarry within such close proximity to our school. Thank you for your service and attention to this matter.

In His Service,



Dr. Craig Ernstmeyer
Administrator/Principal
Saxony Lutheran High School

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December 2, 2010

VIA HAND DELIVERY

Mike Larsen, Staff Director
Land Reclamation Program
Department of Natural Resources
1101 Riverside Drive
PO Box 176
Jefferson City, MO 65102-0176

RECEIVED
MO. LAND RECLAMATION COMM.
DEC 02 2010

Re: Comments - Heartland Materials, LLC Permit Application for Industrial Mineral Mines, New Permit – Open Pit Operation– Heartland Quarry, SUR-799 & 2102, T-32N, R-13E, Cape Girardeau County, Missouri

Dear Mr. Larsen:

This firm represents Saxony Lutheran High School located at 2004 Saxony Drive, Jackson, Missouri and Save Our Children's Health, Inc., a citizen advocacy group located in Cape Girardeau County, Missouri.

Saxony Lutheran High School is a thriving regional high school supported by 25 separate associated churches in Ste. Genevieve, Perry, Scott, and Cape Girardeau Counties. Built in 2004 at a cost of \$6 million and expanded due to growth in 2009 at an additional cost of \$1 million, Saxony Lutheran provides secondary education to 187 students. The high school provides a typical daily schedule commencing around 6:00 a.m. through well in to the evening hours. In addition to outdoor physical education classes, the school provides a full range of Missouri State High School Athletic Association varsity sports including outdoor sports such as soccer, baseball, softball, cross-country and track. Because students make use of the property for such an extended period of time every day, there is ample opportunity for students to be exposed to ambient air and noise of a quarry while on school property during and after classroom hours, as well as ample opportunity for the students to be exposed to heavy machinery and large equipment traffic while traveling to and from school during heavy traffic flow hours.

The properties surrounding Saxony Lutheran High School have been of great interest to the limestone quarry industry this past year. On July 29, 2010, the Missouri

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Department of Natural Resources (the "Department") received a construction permit application for a proposed rock crushing plant in Jackson, Missouri by Strack Excavating ("Strack"). On October 4, 2010, the Department received a 161-acre (long-term mine plan boundary) limestone open pit mining application by Heartland Materials, LLC ("Heartland") for the property immediately south of Saxony Lutheran (the "Heartland application"). Just two weeks later, on October 19, 2010, the Department received a 76-acre (long-term mine plan boundary) limestone open pit mining application from Strack for the property immediately north of Saxony (the "Strack application"). Attached hereto as Exhibit 1 is a map and graphic showing the location of the proposed Heartland and Strack sites immediately adjacent to Saxony. The two permit applications are working through the same administrative processes at the same time, raising the same issues for Saxony Lutheran and for the Department. Because the two proposed sites are so similarly situated, and because the Department cannot realistically determine the burden that these proposed quarries will have on the health, safety, and livelihood of the Saxony students, administrators and teachers by assessing them separately, we believe that the effects of the two permit applications should be assessed comprehensively and in tandem.¹

GENERAL COMMENTS AND ISSUES

There are serious deficiencies to the Heartland application submitted on October 4, 2010, despite the additional supplements and revisions supplied by Heartland on October 6th and 14th. Because of these deficiencies, we believe the Heartland application does not meet the statutory or regulatory requirements for an open mine permit under Missouri law. *See generally* R.S.Mo. § 444.772 *et seq.*; 10 CSR 40-10.010 *et seq.*

Further, the unique circumstances surrounding the Heartland application to construct a limestone quarry to the immediate south of a thriving high school, which is bordered immediately to the north by the site of the proposed Strack limestone quarry, requires a review of the comprehensive effect of the two proposed quarries on the health, safety, and livelihood of Saxony Lutheran High School, its students and families, as well as the administrators and teachers on its campus. We believe there is sufficient scientific and factual evidence to create issues of fact that the proposed permitted activity will unduly impair the health, safety, and livelihood of the students, teachers, administrators, and families at Saxony Lutheran High School to require a formal hearing by the Land

¹ As the comment period for the Heartland application closes only four days after the Strack application was complete and posted to the Department's website on November 29, 2010, this comment letter will focus on the Heartland application. We plan to provide a second comment letter specific to the Strack application in advance of January 2, 2011. However, a review of either application in isolation is an incomplete review and cannot accurately assess whether the proposed permitted activities will unduly impair the health, safety or livelihood of the Saxony students, teachers, and administrators.

Reclamation Commission. See *Lake Ozark/Osage Beach Joint Sewer Bd. v. Missouri Dep't of Natural Resources Land Reclamation Comm'n*, 2010 WL 3394730 *1, *6 (Mo. Ct. App. W.D. Aug. 31, 2010) (overturning the Land Reclamation Commission's decision and holding that the petitioners only bear the burden of producing sufficient scientific evidence to establish an issue of fact that the permitted quarrying operations would impact their health, safety, or livelihood). Because there are many issues of fact that the health, safety, and livelihood of the Saxony students, teachers, and administrators will be unduly burdened by the proposed permitted activity, the Land Reclamation Commission should grant a hearing on these issues where the burden of persuasion will be on Heartland to prove, by comprehensive and substantial scientific evidence, that the health, safety, or livelihood of the students, teachers, and administrators would not be unduly impaired by the impact from the permitted activity. *Id.*

1. Heartland Materials, LLC does not have sufficient legal authority to mine the land in the proposed permitted area.

While it is the operator, and not the owner, of a proposed mine who is the applicant for an industrial mineral mine permit, Missouri law requires the operator to show the source of its *legal* right to mine the land affected by the permit. R.S.Mo. § 444.772.1, 2(2) (2010). The Heartland application indicates a proposed permitted area on two parcels: the Joe Hoffmeister Farms parcel and the Hoffmeister Real Estate parcel. In Heartland's original application, the forms for each separate disturbance area listed only "Verbal" as the basis for its authority to mine both parcels. Upon request by the Department, Heartland revised its application to at least provide the date of the agreement as April 10, 2010. However, none of the application materials provide for Heartland's actual legal interest in the permitted sites, nor do the materials provide further proof that such an agreement exists.

A verbal agreement is not sufficient legal authority to provide the basis for a mining permit, as such an agreement is not enforceable under the Missouri statute of frauds, which requires that all contracts for the sale of interest in real property (including the extraction of minerals) or contracts that cannot be performed within one year, be in writing and meet the requirements of the statute. R.S.Mo. § 432.010 (2010). Under Missouri law, the lease of a mineral interest in land falls within the statute of frauds, and a verbal agreement that does not meet the statute of frauds for such mineral interest is unenforceable. See *Norden v. Friedman*, 756 S.W.2d 158, 162 (Mo. 1988). Heartland Materials, LLC does not even have an option to purchase the property, a mineral lease to mine the land, or a surface easement to access those minerals, any one of which would be required for sufficient legal basis to mine the properties.

Further, unless the contract is capable of being fully and completely performed by April 10, 2011, the contract falls within the statute of frauds regardless of whether it is for an interest in real property. In this case, it is clear that neither contract can be performed

within one year, as each parcel owner will retain ownership of the land itself, but simply permit Heartland to use the land for mining. In order to fully and completely perform the contract, the landowner must continue to give Heartland access to the land to continue the open pit mining. Since the permit application is for a Long Term mine plan that would run for a 100-year period through December 21, 2110, the landowners cannot grant Heartland access for the term of the permit and also perform the contract within one year. Thus the verbal agreements between Heartland and Hoffmeister Real Estate and Heartland and Joe Hoffmeister Family Farms are not capable of being fully or completely performed within one year, and are subject to the statute of frauds.

Whether subject to the statute of frauds as the sale of an interest in land or because the contract cannot be performed within one year, the agreements between Heartland and Hoffmeister Real Estate and Heartland and Joe Hoffmeister Family Farms are not memorialized in writing, and thus fail to meet the requirements of the statute of frauds set out in R.S. Mo. § 432.010, and are unenforceable by Missouri courts. Even if there was part performance of the contract, neither party has committed actions that would materially change their positions based on the alleged contract, so the agreement cannot be taken out of the statute of frauds based on partial performance.

If the contracts on which Heartland relies for its legal authority to mine the proposed permitted sites are unenforceable under Missouri law, then the statutory requirement that an applicant show "the source of the applicant's *legal* right to mine the land affected by the permit" is not met. R.S. Mo. § 444.772 (2010) (emphasis added). Because Heartland has no legally enforceable right to mine the proposed permitted site based solely on the assertion that a verbal contract exists, the application is incomplete and should be denied.

- 2. The proposed quarry by Heartland is only nominally separate from the proposed quarry by Strack Excavating, as the two quarries are proposed for permitting immediately to the south and north of Saxony Lutheran High School and have associated landowners to the east and west of the School.**

The current proposed mine plan covers the Joe Hoffmeister Farms parcel, owned by Joe Hoffmeister and located to the immediate southwest of Saxony, and the Hoffmeister Real Estate parcel, owned by Lloyd Hoffmeister and located to the immediate southeast of Saxony Lutheran. However, in addition to being an insufficient legal basis for Heartland's authority to mine the proposed site, the fact that the contracts between Heartland and Joe Hoffmeister Farms and Heartland and Hoffmeister Real Estate are verbal contracts makes them an insufficient description of the property Heartland intends to mine. The extent of these verbal contracts is unknown, giving reason to believe that Heartland plans to expand the quarry mine from the current 161-acre proposed mine plan immediately south of Saxony Lutheran High School, as shown

in Exhibit 1, to also include the parcels located to the immediate east and west of the High School—which are owned by Hoffmeister Stake and Handle and Joe Hoffmeister Farms, respectively. The Joe Hoffmeister Farms parcel to the west of Saxony is part of the same parcel that is already proposed for permitting, and is just across County Road 601 from the Joe Hoffmeister Farms parcel that is the site of the proposed Heartland mine. The Hoffmeister Stake and Handle parcel to the east of Saxony is owned by Hoffmeister Stake and Handle LLC, which was incorporated by Lloyd Hoffmeister in 2005. Lloyd Hoffmeister is the same person who owns the Hoffmeister Real Estate parcel that is currently part of the Heartland application directly south of Hoffmeister Stake and Handle.

Further, the owners of the properties currently proposed for permitting and the additional properties of Hoffmeister Stake and Handle and Joe Hoffmeister Farms are sufficiently “associated” as to trigger the statutory requirement that the Commission consider their own permits, if any, when determining the effect of the proposed permit upon the health, safety, or livelihood Saxony Lutheran students, teachers, and staff. Because the owners of these additional two parcels are the same owners of the parcels Heartland proposes for permitting, and because there is no written contract indicating which parcels the Hoffmeister family has agreed to let Heartland use for its open mine quarry, there is reason to believe that Heartland plans to expand the quarry mines to these additional parcels. Should Heartland succeed in permitting these additional parcels, this would make the Strack and Heartland sites only nominally separate, and would turn Saxony Lutheran High School in to an island surrounded on all sides by quarry operations. The potential for expansion of the current proposed mine plan to effectively surround Saxony Lutheran High School should give the Department pause as to whether or not this first permit should be granted.

Further the verbal contract between Heartland and Joe Hoffmeister Family Farms and Hoffmeister Real estate does not explain the relationship between Joe Hoffmeister, Lloyd Hoffmeister, Hoffmeister Stake and Handle and Heartland. Because there is no clarity in the relationship between these parties, and the landowners have allegedly permitted Heartland to mine on their land, the parties are sufficiently “associated” with Heartland to trigger the statutory requirement that the Commission consider their own permit and past compliance history with state environmental laws. *See Lincoln County Stone Co., Inc. v. Koenig*, 21 S.W.3d 142. (Mo. Ct. App. E.D. 2000) (requiring the Commission to consider “associated” sister companies based on common officers and ownership between the two companies). In its current form, the Heartland Application lists only the permits issued to Richard Hurst, a Heartland Shareholder, through his companies, Perry County Stone Company and Farmers Limestone Company, Inc. Because the application fails to address any permits issued to the landowners, who may be considered silent partners, the application is deficient.

Finally, 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.

3. A comprehensive review of the proposed Heartland application and Strack application reveals that the two quarries will exceed the national ambient air quality standards, as well as the maximum allowable particulate matter emissions increase, putting the health of the students, teachers and administrators at risk.

Both Strack Excavating and Heartland Materials have filed applications for MDNR air pollution control program construction permits under 10 CSR 10-6.060 sections (5) and (6), and based upon an online review of the applications we believe that both quarries, when operational, will have PM_{10} ambient impacts in excess of $126 \mu g/m^3$. 10 CSR 10-6.060(5), (6) (2009). In addition to the close connectedness of these two quarries, the fact that a high school with a sensitive population is located between them, provides an additional basis for a comprehensive review of these two applications in tandem based upon the criteria set forth in 10 CSR 10-6.060(6)(A)2-3, which provides that a permit shall only be issued under section (6)(A)2, if the proposed source operation does not interfere with the attainment or maintenance of ambient air quality standards; and section (6)(A)3, that the proposed source operation not cause or contribute to ambient air concentrations in excess of any applicable maximum allowable increase listed in subsection (11)(A). 10 CSR 10-6.060(11)(A) (2009) ("Table 1").

As outlined in our November 23, 2010 letter to Jim Kavanaugh of the Air Pollution Control Program, attached hereto as Exhibit 2, we have great concerns that when the ambient impact of the nominally separated quarries are viewed together, there will not only be an exceedance of the national ambient air quality standards for PM_{10} but also the combined particulate matter emissions will exceed the maximum allowable increase authorized in Table 1.

In addition, while limestone itself is not generally listed as a carcinogen, because limestone dust contains crystalline silica, which is classified as a known human carcinogen by IARC, NIOSH, and NTP, and regulated by California's Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986), exposure to dust at this level by a sensitive population is cause for great concern. We urge the Department to require that Strack and Heartland perform comprehensive dispersion modeling to verify that the ambient concentration of PM_{10} in the vicinity of the school will not exceed the ambient air quality standard and place this sensitive population at ongoing pulmonary risk.

4. **Though there are planned outfalls listed in its application, Heartland has failed to even apply for a necessary dredge permit under Section 404 of the Clean Water Act, as well as a National Pollutant Discharge Elimination System permit under Section 402 of the Act.**

The Heartland application detail map shows the location of the unnamed creek tributary that flows through the proposed quarry site, as well as a proposed outfall to that tributary, Outfall #001. However, none of the application materials indicate that Heartland has applied for or intends to apply for a dredge and fill permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. A note on the detail map submitted with the application indicates that a "USACE 404 Permit Eligibility Determination currently in process." We believe that the unnamed creek tributary on the proposed site falls well within the jurisdiction of the U.S. Army Corps of Engineers. Even if the tributary is not a traditional navigable water, the U.S. Army Corps of Engineers exercises jurisdiction over non-navigable tributaries of traditional navigable waters that are relatively permanent where tributaries flow at least seasonally. *See U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, "Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States,"* (December 2, 2008). Based on the jurisdiction of the U.S. Army Corps of Engineers over the navigable waters of the United States, any dredge or fill material discharged to that tributary requires a permit under Section 404 of the Federal Water Pollution Control Act, or the Clean Water Act, 33 U.S.C. §§1344 *et seq.*

Further, if Heartland plans to discharge to the tributary, which is not addressed in the Heartland application, this constitutes a "discharge of pollutants" to the waters of the United States under the Clean Water Act, and Heartland must apply for and receive a National Pollutant Discharge Elimination System or "NPDES" permit. *See* 33 U.S.C. §§ 1342(a). The Clean Water Act prohibits discharge of a pollutant from a point source to a water of the United States without an NPDES permit. 33 U.S.C. § 1311(a). A "point source" is "any discernible, confined and discrete conveyance, including, but not limited to any pipe ditch, channel, tunnel, conduit . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14). A "pollutant" is defined as "dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6). There is no doubt that an outfall to a tributary that is a water of the United States is a point source under the Statute. Thus, if Heartland plans to discharge any material that could be a pollutant in to the tributary through its planned outfalls, it is required to receive an NPDES permit to do so.

5. **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.**

The current Heartland application indicates a total bonding requirement of \$12,500 for the 17 acres of the site that are being permitted to be used in the next twelve months. However, as discussed in subsection 2, above, there is reason to believe that Heartland will in the future request an expansion of its permit to include the Joe Hoffmeister Family Farms parcel to the west of the High School and the Hoffmeister Stake and Handle parcel, owned by Lloyd Hoffmeister, to the east of the High School. Because of the current proposed permitted parcels and these two potential future parcels have the same ownership, and because there is no real distinction between the parcels, we request that the Land Reclamation Commission require bonding for more than the 17 acres as listed in the Heartland Application. Instead, we request that the Commission require additional bonding of additional acreage if Heartland plans to apply for additional acreage on the current mining plan or on parcels that Heartland plans to mine in the future that are adjacent to the current mine plan property.

6. **While the profits of the proposed quarries will go to Heartland and Strack, the economic costs of the quarries will be born by the Saxony Lutheran students, the community that will lose its investment in the School, and the faculty and administrators at Saxony Lutheran whose livelihood is unduly impaired.**

Saxony Lutheran High School built its current facility in 2004 at a cost of \$6 million. Funds were raised by the 25 association churches that support Saxony Lutheran throughout Ste. Genevieve, Perry, Scott, and Cape Girardeau Counties. In 2009, Saxony Lutheran completed construction of a \$1 million extension of the northwest and northeast wings to accommodate growth of the student body. Saxony Lutheran is home to 187 current students and has the capacity to grow to a student body of 300. In addition, Saxony Lutheran High School supports 13 full-time and 3 part-time faculty members, 3 administrators, and 7 staff members.

If the Heartland quarry is permitted as described in the Heartland application, it is likely that enrollment at Saxony Lutheran will not continue to grow, and may even drop, during the years the quarry is permitted to continue its open mining activities. A drop in enrollment could require significant cuts to the faculty or administration of the High School. This would significantly impair the livelihood of the faculty, administrators, and staff at Saxony Lutheran High School. In addition, as enrollment at the School drops, the value of the investment of the communities surrounding Saxony drops, as well, including property value and intrinsic value of the education received by students at this location.

7. Blasting within 100 yards of school property will undoubtedly impair the health and learning environment for Saxony students, faculty and staff.

Based on the detailed map submitted with the Heartland application, the mine plan boundary is within 100 yards of the Saxony Lutheran High School property, just across County Road 601. While the permitted mining area is within the mine plan boundary, and Heartland's application includes provision for a permitted berm between the permitted areas and the School property, such a limited barrier will have no effect on the level of noise from the blasting on the Saxony Lutheran students, faculty and administrators. Blasting during school hours will seriously impair the Saxony Lutheran students' ability to learn, and will unduly impair the value of their education. Based on this, we request that Heartland agree to follow the federal regulations for blasting parameters related to coal mining activities administered by the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement. *See* 30 C.F.R. §§ 816.61-68, 850.10-15 (2010). However, even if Heartland were willing to restrict blasting the federal regulatory parameters (e.g., setting up a blasting schedule to blast only during non-classroom hours, restricting the amount of noise created by the blasts, etc.), because of the extended use of school property both before and after class for athletics and extracurricular activities, blasting will seriously impair the students ability to participate in these activities on their facility.

In addition to noise from blasting, the use of explosives on site so close to the High School property will unduly impair the safety of the students, faculty, and administrators at Saxony Lutheran, as the vibrations caused by such blasting could weaken the structural integrity of the High School facility, placing the students in further danger. Because of this danger alone, the Heartland application should be denied. At the very least, we request that Heartland conduct a blasting survey on the Saxony Lutheran High School facility, and any other structures in similar proximity to the mine plan boundary, to determine the effects of blasting on those structures and take any additional measures necessary to protect the students' safety. Further we request that Heartland be required to engage an independent blasting consultant to set up a seismograph to monitor the vibrations on the Saxony Lutheran property and any properties in similar proximity to the mine plan boundary to determine the effect of any blasting on these properties.

8. Based on the volume of mined materials outlined in the Heartland application, the volume of heavy duty traffic on the same roads as the Saxony students will impair the students' safety.

The Heartland application provides for at least 17 acres of permitted mining area in the next twelve-month period. Based on this large permitted acreage, and depending on the extent of the mineral reserves, there will be an overly burdensome increase in the volume of heavy equipment and heavy truck traffic on County Road 601 and Highway

61, the same road and highway traveled by students, on both ingress and egress during peak school traffic hours (before class begins and after classroom hours). This increase in traffic, particularly with heavy equipment and truck traffic will unduly impair the safety of these young drivers on the roads they must travel to get to and from school. Further, the possibility of trucks and heavy equipment carrying rocks and other debris that are improperly packed and could fall on other vehicles is greatly increased. Because of this undue impairment of student safety, we believe the Heartland application should be denied. At the very least, we request that the Department require a full transportation analysis, including points of ingress and egress, material safety data sheets for materials being hauled, and estimates on the number and size of loads to be hauled.

9. Because there are public and private water supply wells in the vicinity of the Heartland mine plan boundaries that may be compromised by the blasting and mining activities, the health of the Saxony Lutheran students, faculty, and administrators, as well as other landowners in the facility is unduly impaired.

Nowhere in the Heartland application does Heartland address the fact that there are public and private water supply wells in the vicinity of the mine plan boundary. Because this area is a karst geography, we have great concerns that the public and private water supply, including the aquifers and any existing or future wells, will be compromised due to the proposed permitted activity (including blasting and mining activities). Because the Heartland application has not adequately demonstrated that the public and private water supply in the area will not be impacted, nor has the application even addressed the impacts the proposed permitted activity would have on the local water supply, the Heartland application should be denied. At the very least, we request that the Department require Heartland to demonstrate that their activities, in a karst geography, will not impact the public and private water supply, and therefore, the health of the Saxony students, faculty, and administrators and landowners in the vicinity of the proposed mine plan boundary.

CONCLUSION

Because there are many questions of fact and law indicating that the issuance of the Heartland Materials, LLC permit will unduly impair the health, safety, and livelihood of Saxony Lutheran High School and its students, faculty, and administrators, we request an informal public meeting with Heartland Materials, LLC to discuss the permit application. If Heartland refuses to hold such a meeting, or if there is no resolution of these concerns at that meeting, we request a formal hearing with the Land Reclamation Commission to discuss these concerns. In addition, we request that you, as the Director of the Land Reclamation Program, make a formal recommendation to the Land Reclamation Commission that it deny the Heartland Materials Permit for Industrial

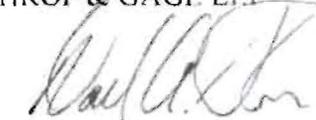
Mike Larsen, Staff Director
December 2, 2010
Page 11

Mineral Mines – New Open Pit Permit—Heartland Quarry, SUR-799 & 2102, T-32N, R-13E, Cape Girardeau County, Missouri.

Very truly yours,

LATHROP & GAGE LLP

By:



David A. Shorr

DAS/jf
Enclosures

cc: Leanne Tippet Mosby, MDNR, DEQ
Mark Smith, USEPA Region 7, APCO
Senator Jason Crowell, District 27
Representative Scott Lipke, District 157
Representative-Elect Donna Lichtenegger, District 157
Craig Ernstmeyer, Saxony Lutheran High School
Abby Petzoldt, Save Our Children's Health, Inc.

Sally L. Lorenz
1715 West Cape Rock Drive
Cape Girardeau, MO 63701
573-803-0806 or 573-204-7555

RECEIVED
MO. LAND RECLAMATION COMM

NOV 15 2010

November 11, 2010

To: Land Reclamation Director

I am writing to voice my concern regarding the proposed quarry to be located across from Saxony Lutheran High School.

Eleven years ago, I was fortunate enough to be chosen as the English teacher for the very first year ever of SLHS. We only had 7 students, but the Lutherans of our area had a BIG dream. I witnessed the amazing generosity, determination, and love of the Lutheran community as they supported our first few years as a school. We had women from Lutheran churches in Altenburg, Frohna, or Pocahontas cook, deliver, and serve delicious homemade lunches for us regularly. When our tiny school of 7 students rode on a small truck-bed at the East Perry County Fair parade, joy and pride radiated from the crowd of cheering faces, which consisted of families of all ages in lawn chairs, from 95 year old grandpas to the smallest babies in strollers. The Lutheran community impressed me then, as they still do every day, with its level of commitment toward providing and maintaining for their children and grandchildren, as well as for any students in the area, a place of their own, where the teachings of Jesus Christ are blended with a rigorous academic curriculum.

I have witnessed grandparents, parents, students, friends, aunts, uncles, pastors, teachers, even Lutherans with no children of their own, donating whatever they can to our school--whether it be time, money, food, supplies, service, whatever. People give thousands of dollars to fundraising efforts after working hard their entire lives and living very frugally. Some have given hundreds of thousands of dollars. There has never been any doubt in my mind we were, and still are, doing God's work.

The donation of the land in Fruitland was a huge blessing for us! We only had 50-odd students at the time, but the dream was big! People came together and worked many long

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Page 2

hours to plan and design the school, build it, equip it, and then open it for the students! There were hundreds of meetings, many committees, many churches involved; volunteers were never hard to find. You see, the Lutherans in this area have a long history, having settled in the Altenburg area upon arrival from Germany many generations ago. However, in all that time, never was there a Lutheran high school in the area. Children had to transfer from their local Lutheran grade schools to the nearest public high school in 9th grade. Saxony was literally a Godsend to these people, and the building site was like the Promised Land!

And how we have grown! We have been accredited by both the Missouri Accreditation of High Schools and the Lutheran Accreditation committee. We went from 7 students, with a faculty to student ratio of 1:1, no sports, no extra-curricular activities/clubs, no newspaper or yearbook, no cheerleaders, no drama department, no school building (we used an area church's Activities Building), no school colors—next to nothing—to a fully functioning high school in a lovely new facility, with girls and boys sports teams, cheerleaders, drama, our own newspaper and yearbook, an Academic team, a hot lunch program, a full time counselor, elective and college courses, blue and gold colors—the Crusaders!--almost 200 students, and so much more. Never have we for one moment thought that any of this was our own doing. We all know without a doubt Who has brought us this far this fast. Sometimes in life one is blessed to see God work in a big and powerful way. We at Saxony Lutheran High School are humbled to know we are a part of His awesome work right here in Fruitland, Missouri.

Now we are faced with something we could never have foreseen. Of all the land in Missouri, of all the land in southeast Missouri, a company wants to put a quarry right across from the school God has built with the hands and hearts, talents and resources of so many faithful servants. It doesn't seem fair, but we know life often isn't fair. Often unavoidable tragedies occur. However, in this case, the quarry doesn't have to move in across from our school. The quarry company can find another location; Saxony Lutheran High School cannot.

To imagine the impact of a quarry across from our campus, one must put him/herself in the school setting and picture a typical day. As students gather for chapel to pray, worship, and sing praise to God, dynamite blasts boom in the background. Flying rocks have been known to break windows, dent cars, and occasionally even hit students. As 14-18 year old teenagers sit at their desks studying biology, English, algebra, or art, dust settles thickly on the pages of their

NOV 15 2010

Page 3

books and in their lockers, in the halls, in the gym, in the kitchen. The roar of heavy equipment just outside the classroom windows competes with the teachers' instructions for the attention of the students. When the bell rings at 3:00, young, enthusiastic athletes rush out to train in the great outdoors, only to choke for breath in a heavy cloud of gray powdery dust, rather than filling their lungs with fresh, healthy, clean air. When brand new drivers approach the school, they must navigate around construction trucks, machines, and equipment--and quite possibly huge potholes made by those same vehicles. What happens if one of these inexperienced drivers has an accident and children are hurt? Or worse? You can't undo something like that. Ever. What happens if potential Saxony students don't come to Saxony because there is a quarry next door? What if a child who needed what Saxony has to offer missed his/her chance because he/she was allergic to dust, had asthma, was leery of flying rocks, or was frightened away by the large equipment and noise? The consequences could literally be eternal.

Everyone agrees that we need our young people to make good decisions, stay on the right path, stay in school, become responsible adults and mature members of society. They are our greatest natural resource. We need them. The future of our country and the world depends on the younger generation. Saxony Lutheran High School is doing great things for future generations, by the Grace of God. Here, you have a chance to make a difference in countless lives by turning down the request for a quarry across from our beloved school. I pray you will give this matter your utmost consideration, because rocks can be found anywhere, but God's children are precious and unique. Please join in God's work by allowing Saxony to continue to grow and serve without the dangers and disturbances of a quarry.

As you make your decision, please remember how much this Promised Land means to so many people, how long and hard they have worked toward it, the good that is being done here, and the negative effects a quarry would indisputedly bring upon us. I appeal to you with all my heart to reach into your conscience and find the courage to put our children first and foremost, over any economic and monetary considerations. I realize there are legal stipulations in matters like this, but if it is within your power to stop this egregious business deal, I earnestly implore you to stand up and make a difference. To God be the glory if it can be said of us that we put aside our greed for the almighty dollar and did the right thing by our children and grandchildren.

May our heavenly Father guide your deliberations and bless you with clear minds, courage, and the wisdom only He can give. Thank you for your time and effort.

Respectfully,



Sally L. Lorenz
English Chair
Publications Adviser

NOV 08 2010

To the Land Reclamation Board,

I am writing out of concern about the Heartland Materials quarry currently applying for a permit to operate right next to the campus of Saxony Lutheran High School. My daughter is a student at Saxony and that is why this situation affects me directly. I am concerned for several reasons:

- 1) Since quarries are industrial sites, I am concerned about the health of my child and all other students at the school. As I understand it, quarries generate quite a lot of dust. Our school sits on top of a hill where the wind blows constantly. Many of the schools activities take place out of doors. I can only imagine the affect the potential dust would have on the enjoyment and health to both our students and visitors.
- 2) I am concerned about my student's safety. Industrial traffic generated by the proposed quarry combined with our inexperienced teenage drivers seems like a worst case scenario. It seems that this situation should warrant a study relative to the potential for accidents that will exist given these unique circumstances.
- 3) I feel that the livelihood of the school may be jeopardized. Our church, along with the other 24 association churches have a multi million dollar investment in our school, which just last year went through another \$1MM addition. Having a quarry so close to our school grounds certainly does not bode well for a new school which was built long before quarry was proposed. This quarry may very well deter future students from attending Saxony... making our considerable investment a prisoner to our location.
- 4) I am also concerned about the noise generated by the quarry. As I understand it, hours of operation will be at the same time school is in session. The noise and vibrations that will occur during school hours will make it difficult for our students to learn. Not to mention the undue stress and anxiety it may well cause our young learners.

I respectfully ask that Saxony Lutheran High School be granted a hearing to discuss these and other matters regarding this proposed quarry adjacent to our school grounds. Currently, there are just too many unanswered questions and concerns to go any further without one. Thank you for your consideration.

Sincerely,
Jayne Tiehes
153 Timber Lane
Jackson, MO. 63755



November 16, 2010

RECEIVED
MO. LAND RECLAMATION COMM

NOV 19 2010

RE: Heartland Materials LLC Mining Permit Application

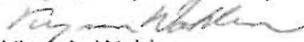
Director, Land Reclamation Board

I am writing to voice my concerns about an application for a mining permit submitted by Heartland Materials LLC to operate a mine in the Fruitland, Missouri community. Currently I do a sizable portion of my business in this area: shrubs/trees at Bloomers Nursery, gas and convenience groceries at the 4 convenience stores, eating at the Pie Bird Restaurant, having relatives stay at the Drury Hotel when there are school activities, and I make many stops at the Dairy Queen and Pizza Inn, all because I currently have two children in the Saxony Lutheran High School. However, having grown up near an operating quarry and knowing the conditions that exist around quarries, this would all be impacted should this quarry be granted a permit to start operation.

I know about the dust that will settle into the soccer field. With three of the four in my family wearing contacts, I know how the limestone will feel like sand in our eyes. I know how sinkholes can open up overnight and the dangers that come with them. I know how the blasting compromises the structure of buildings and shudder to think of the high ceilings of the gym and lunchroom areas in the school and the Bavarian Hall convention center where many school/church events are held. I remember the lingering smell of explosives when air pressures did not allow the fumes to dissipate, and the headaches that sometimes followed. I tell stories of the numerous rocks that fell through buildings and on the roads during blasting. I remember the truck drivers driving fast to meet their delivery times and how the roads always had rocks on them making driving conditions unpredictable. I know how County Road 601 and Hwy 61 will be impacted by the heavy trucks. I know how the branch of Hubble Creek flowing through this valley will be replaced with settling ponds. These impacts all come with a quarry.

Because of my firsthand experience around quarries, I know what life would be like. I fully support quarries existing at locations that do not impact existing communities or schools with developing minds that are more sensitive to these conditions. But Fruitland community is not the best location for a quarry. The schools, the businesses and the hundreds of residents have been here for years and have not negatively impacted each other. Help us continue to live our healthy, clean, quiet lives and let the quarry operators find a more logical place for their business. 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". Follow this law and say NO to their application request. I request an informal public hearing and a formal courtroom hearing be granted for review of this application.

Respectfully submitted,


Virginia Wahlers

528 Sweet Pea Lane
Jackson, Mo 63755

Date: 10-31-10

To: Land Reclamation Board,

It has come to my attention that (Strack Excavating or Heartland Materials) has applied for a permit to operate a quarry very close to the campus of Saxony Lutheran High School. I am writing because I am most concerned about this situation and the impact a quarry would have on the ongoing livelihood of the school.

I am a member of Immanuel Lutheran Church, Perryville, MO, one of the 25 churches who together form the ownership association for Saxony. My concern is about the future livelihood of the school should a quarry be granted a permit to operate so close to our grounds.

My congregation, and all congregations in the association, have a multi-million dollar investment in this school, an investment that was made for current and future students. However, I fear that the future of our school may be irreparably harmed by this proposed development. Right now we are a growing, vibrant school, but the perception of a school so close to a dusty, noisy industrial site like this one will most likely keep many students from choosing to attend Saxony. Once this happens, the growth stops and the long-term livelihood looks more bleak as each year passes and the quarry gets bigger and bigger.

Our school was located at its present location long before this permit was applied for and so I believe we should have a chance to explain our case more fully before any decisions are final. Therefore, I respectfully ask that you give Saxony Lutheran High School a hearing about this permit so that all areas of its potential impact can be discussed in a public forum, openly and honestly.

Sincerely,

Erna L. Mahnken

My Signature

Erna L. Mahnken

My Name (Printed)

1176 PCR 338

My Address

Frohna MO 63748

City, State, Zip Code

RECEIVED
MO. LAND RECLAMATION COMM.
NOV 03 2010

NOV 03 2010

Land Reclamation Board

PO Box 176

Jefferson City, MO 65102

To the Missouri Land Reclamation Commission:

I am writing to request a public hearing on the quarry being proposed by Heartland Materials, LLC in Fruitland, Missouri. I am very concerned about the health and safety of the students of Saxony Lutheran High School should this quarry be allowed to locate so closely to my school.

As it relates to health, several of our 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 for all of the students in our area who come to our school to participate in softball games, baseball games, soccer games and cross country meets, area wide play days, summer camps and more. I participate in baseball and cross country. The proposed quarry would be 600 feet from the baseball diamond.

In addition, I am also a 16 year old student at Saxony and a new driver. I am very concerned about safety as it relates to the heavy truck traffic which is standard at any quarry like the one being proposed. Common sense suggests that mixing inexperienced drivers with this kind of heavy industrial traffic is a recipe for disaster.

I know that I am just one voice, there are many others that deserve to be heard. A public hearing is the best way to allow that to happen. Thank you for your consideration.

Sincerely,



Samuel I. Breite

2811 Thomas Dr.

Cape Girardeau, MO 63701

573-651-3038

From: Marilyn Welsh [mailto:marwelsh@yahoo.com]
Sent: Tuesday, November 02, 2010 4:19 PM
To: Larsen, Mike
Subject: Quarry at Fruitland, MO

Dear DNR:

I am sending this email to express my concerns and opposition to the proposed quarries at Fruitland MO and to request that both of these applications be denied. The applications are listed as - Strack Excavating LLC is proposing a 76-acre limestone quarry between U.S. 61 and County Road 601 and Heartland Materials LLC for a 161-acre limestone quarry off County Road 601.

My husband and I recently moved to a subdivision within the 2 mile radius of the proposed quarries. My husband suffers from allergies to dust and other pollutants. We moved to this area to eliminate these pollutants as much as possible and now we find out that not one but two companies are wanting to put in quarries. Our subdivision is a beautiful country setting and these quarries would certainly destroy this setting as well as be a health concern for my husband.

In addition, these quarries would surround the Saxony Lutheran School where children of all ages are in harms way from flying rock, etc as well as dust. This would certainly not be a safe or healthy setting for children.

Please deny these applications and permit our children and those with health problems to live in the healthy environment that God gave us.

Thank you for your attention in this matter.

Sincerely,

Marilyn Welsh
2008 Green Ridge Lane
Jackson, MO 63755
573-204-0830

November 2, 2010

Land Reclamation Board
P.O. Box 176
Jefferson City, MO 65102

RECEIVED
MO. LAND RECLAMATION COMM.
NOV 04 2010

Dear Missouri Land Reclamation Commission members,

I am a resident of Cape Girardeau County and close neighbor (approximately 1 mile) to the quarry being proposed by Heartland Materials, LLC in Fruitland Missouri. I request a public hearing on this proposed quarry.

I have four main concerns with the proposed quarry. First, concerns the safety of residents in Fruitland and the students at North Elementary School and Saxony Lutheran High School. Two hundred and fifty large trucks are expected to haul rock from the quarry each day causing traffic safety concerns for residents and students during their morning and afternoon commutes. Second, concerns the health of residents in Fruitland and Cape Girardeau County. Dust from the quarry and trucks may worsen the condition of children and older adults with asthma and other breathing afflictions. In addition, Cape Girardeau County has been on the margin of being designated an ozone non-attainment county and the increased truck traffic will likely push the county over the ozone limit. Third, Missouri mining has a long history of environmental degradation. Lead mining has resulted in polluted rivers, such as Big River, and polluted air, such as lead blowing off sand piles near Bonne Terre. Quarries can cause groundwater contamination resulting in a loss of drinking water for those households relying on well-water. Finally, the proposed quarry will result in declining property values for those household unfortunate enough to be located next to the quarry. The decline in property values will likely stem from noise and vibration caused by blasting, and due to increased congestion caused by large trucks on roads not meant to handle that kind of traffic.

For these reasons-safety, health, environment, and economic-I request a hearing on the proposed quarry so that local citizens can have their voices heard.

Sincerely yours,
Bill Weber
434 Birds' Trail
Jackson, MO 63755



Land Reclamation Project at DNR

NOV 15 2010

Nov. 9, 2010

I want to express my strong opposition to having rock quarries in Fruitland. These quarries would turn what is now a nice little residential community into a filthy undesirable place to live. We purchased our home there eighteen years ago and have worked hard to make improvements to it and our property. Now, we face the prospect of having the value of what we have worked so hard for decreased.

My reasons for opposing these quarries fall into two groups, those affecting me and my family personally, and those affecting the community. First, for those affecting me and my family, as I mentioned above, is property value. Rock quarries create many adverse conditions, all of which could have nothing but a negative effect on the value of our property. Who would want to buy property close to a rock quarry? The blasting that will take place could cause damage to the foundation and walls of our house. In addition, damage to septic systems, water and gas lines are also possible as they have occurred elsewhere around quarries. Radon leaks from newly formed cracks in the ground which seep through your basement floor are also possible. Disruption to our water quality and supply are also real possibilities as the digging could affect water tables and the blasting could stir sediment in underground pools. An adverse affect of a different kind is the one it will have on our family pet. Noise, such as that from blasts, causes our dog, as well as others in the neighborhood to bark continuously. We experience this for a few days around the fourth of July, only, this will not end. Lastly, the dirt put into the air from these quarries will affect my allergies as I have trouble in dusty environments, not to mention the simple fact that dirt will coat everything in the area from the grass to houses and vehicles.

From a community standpoint the ill effects are also great. We have two schools in the immediate area of the proposed quarries. One of these schools will literally be surrounded by these quarries. 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. How about the disruption caused by the blasting and the constant noise caused by dump trucks and other machinery? We are told there will be no blasting during the school day, but what about the constant noise of the dump trucks? What about after school events such as athletic practices, games and meets which are held outside like baseball, softball, track, cross country and soccer? What about anyone who comes to the schools for any reason only to have their vehicle coated with dust while they endure the noise of blasting and dump trucks.

These same issues also apply to businesses in the area. How will it affect their business? What about the cattle farmers whose cattle now have to graze on dirty grass? I am willing to bet it can only have an adverse affect them. Furthermore, let's not forget the residents in the area who send their children out to play in dust filled yards and can no longer keep anything clean.

I do not oppose quarries, only the location of them. They do not belong in areas close to homes, businesses and schools. Please consider the number of people, their property and businesses that will be adversely affected by having these quarries here in Fruitland and say no to the quarries.

Respectfully,

Gordon Walton
353 Concord Lane
Jackson (Fruitland), Mo.

NOV 12 2010

November 9, 2010

To the Missouri Land Reclamation Commission:

I am writing to request a Public Hearing on the quarry being proposed by Heartland Materials, LLC in Fruitland, Missouri. I am very concerned about the consequences of having any quarry that close to a High School. Also, this quarry is located in a very populated area. Many houses are within 1500 feet of the proposed quarry area and some of those residents suffer from respiratory problems. My Grandsons and their father have asthma and breathing problems already. They live about 1500 feet of the Heartland Materials quarry.

There are two schools, several Day Care facilities, a church, and numerous small businesses in the ½ mile or so, radius of this quarry. We are very concerned for their safety and health problems this quarry will present when in operation. There is also the concern with traffic load increase of 200-300 trucks per day leaving this quarry and entering the already busy Hwy 61/I-55 area. Two major manufacturing facilities and several Trucking firms already contribute to the 9,000+ vehicle traffic in a 24 hour period. Allowing 200-300 loaded gravel trucks into this traffic condition is a dangerous situation and certainly irresponsible.

This entire area is the starting of Hubble Creek. If dust/"fines" are allowed to enter the Hubble Creek at the start, the City of Jackson will have to suffer the consequences of what that creeks' contamination will bring to the City Park and surrounding Main Street businesses.

I respectfully ask that an informal hearing take place to discuss more of the issues that others can/will bring out. I also request that a Formal Hearing take place so further evidence can be presented to the Land Reclamation Board.

Thank you for your consideration.

Respectfully submitted,



Margaret A. Makins

226 Eli Drive

Jackson, MO 63755

(573) 243-4393

November 6, 2010

RECEIVED
MO LAND RECLAMATION COMM.

NOV 12 2010

To the Land Reclamation Board of the State of Missouri

As a pastor of two association congregations of Saxony Lutheran High School and as a parent of a past graduate and a current student of Saxony Lutheran High School, I am writing to you out of great concern for the Heartland Materials quarry, which I understand to be applying for permits to operate an open quarry next to the campus of Saxony High School. As a parent I am concerned for the health and safety of my own son, and as a pastor I am also concerned about the health and safety of all the sons and daughters of our 2 congregations that I have encouraged to attend Saxony.

My concerns center on the following points.

1. The health and safety of our students: Quarries generate a lot of dust. Because of the nearness of these quarries to Saxony grounds, where outdoor sports and social activities and outdoor physical education classes are held, I am concerned that the dust generated from the mine, which is breathed into the lungs of students, will present a health hazard to our students and also to any visiting sports teams that may be playing on Saxony's campus. Quarries also generate a lot of heavy industrial traffic. All of that traffic will exit the mine will use the same county road where all of our students must enter into Saxony. I fear for the possible accidents that could take place, with the brunt of the injuries being sustained by the students in smaller vehicles than by the quarries large trucks. I am also concerned that the heavy industrial traffic could create further hazards by jamming traffic when events are held at Saxony.

2. The future of Saxony Lutheran High School. Quarries must blast to obtain their products. I am concerned that blasting so close to the structure of Saxony may cause damage to Saxony's buildings. I am also concerned that the dust generated may also over time bring harm to Saxony's building. Saxony has a beautiful campus that is attractive and peaceful. A quarry right next to Saxony will detract (if not destroy) that beauty and peace. This could have a two-fold affect on Saxony. First, it may deter some parents and students from choosing Saxony High School, thus jeopardizing future enrollment. Second, it will most certainly reduce the property value of Saxony's multi-million dollar facilities and campus, and should Saxony choose to relocate, make resale practically impossible.

Our congregations and compassionate individuals have invested millions of dollars in Saxony Lutheran High School because of the dream of a safe and beautiful place for our children to receive an excellent education in a religious atmosphere. I believe this mine threatens what we have long desired for our children and have finally achieved.

Please allow this letter to respectfully serve as a request for Saxony Lutheran High School to be granted a hearing to discuss these and other matters of concern regarding the Heartland Materials quarry that has been proposed next to Saxony property.

Respectfully,

Rev. Roger Abernathy, pastor of Salem Lutheran Church, Farrar, MO. and Zion Lutheran Church, Crosstown, MO.

315 PCR 328

Farrar, MO. 63746

The Church Council on last Thursday, October 21, has called a special Voters' Assembly for Monday evening, October 25, 2010 at 7:00 o'clock. The purpose of this assembly is to consider the following proposed "Statement of Support" for Saxony Lutheran School with the situation of the impending digging of quarries around the school.

RECEIVED
MO. LAND RECLAMATION COMM.

DEC 17 2010

STATEMENT OF SUPPORT

Our church is proud to be a member of the Lutheran Church Missouri Synod. We are also proud to be a member of the 25 Associated Lutheran Churches who have worked together to support Saxony Lutheran High School since 2000. We are committed supporters of the school's mission to provide excellent Christ-centered education to students, regardless of church affiliation, in the Southeast Missouri and Southern Illinois area. The school has shared with us their concern about the recent development of two companies applying for permits to perform mining operations on both the north and south sides of campus. We believe they are right to be concerned.

First, there is the issue of the health and safety of our students not only from the ever present dust and potential blasting but also exposing our young, inexperienced drivers to the heavy, industrial traffic that a quarry is known to generate. Another issue is the ongoing viability and livelihood of our school should a quarry be granted the necessary permits to operate as close as is being proposed. Our school which was started on faith, is now vibrant and growing. Just last year, an addition was completed to accommodate our increasing student population. Even if these developers run the best operations on record, in the end, perception is reality. And the perception of sending a child to a school literally surrounded by quarries does not bode well for our future.

This school is the culmination of a dream which the area Lutheran Churches, 10,000 communicant members strong, have had for decades. The land on which our school sits was bought with money donated by a group of faithful people who willingly gave to help this dream become a reality. Since that time, every brick, every tile, every book, every desk, every part of the school, from the classrooms, to the ball fields to the chapel area, have been made possible through selfless gifts of countless donors just like them. Anything that would blemish these gifts is something we, an owner of the school, must oppose. To this end, we stand in unwavering support of Saxony Lutheran High School and its opposition to the proposed quarry operations which threaten to surround the school.

Thomas Blome

Name (print)

Thomas Blome

Signature

member

Title

10-26-10

Date