

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

In the Matter of:	)	
	)	
STRACK EXCAVATING LLC.	)	Proceeding Under
Permit # 0832 Expansion	)	The Land Reclamation Act,
Strack Quarry # 2	)	Sections 444.760 – 444.789, RSMo.
Cape Girardeau County, Missouri,	)	
	)	
SAXONY LUTHERAN HIGH SCHOOL,	)	
<i>Petitioner,</i>	)	
	)	
v.	)	
	)	
DEPT. OF NATURAL RESOURCES,	)	
MIKE LARSEN,	)	
Staff Director,	)	
Land Reclamation Program,	)	
Division of Environmental Quality,	)	
<i>Respondent,</i>	)	
	)	
STRACK EXCAVATING LLC.,	)	
<i>Applicant,</i>	)	

**FINAL ORDER**

Upon due notice given to all parties, the Formal Public Hearing was held in the Matter on July 5, 6, 7, & 12, in the 8<sup>th</sup> Floor Conference Room, Broadway Office Building, Jefferson City, Missouri.

Petitioners appeared by Counsel, Stephen G. Jeffery and Bruce A. Morrison, JEFFERY LAW GROUP, Clayton, MO 63105.

Respondent appeared by Counsel, Laura Bailey Brown and Timothy P. Duggan, Assistant Attorney Generals.

Applicant appeared by Counsel, Brian E. McGovern and Robert A. Miller, McCARTHY, LEONARD, KAEMMERER, Chesterfield, MO

A written transcript of each hearing was prepared.

Hearing Officer, W. B. Tichenor issued his Recommended Order on August 24, 2011, that: the Application for Expansion of Permit # 0832 be approved, with the mine plan boundary (*exclusive of underground mining*) to be located one thousand feet from

the Strack – Saxony property line, in compliance with and as required by section 444.731 RSMo.

IT IS HEREBY ORDERED THAT:

- 1) The hearing officer’s Recommended Order is adopted and approved in full.
- 2) The Findings of Fact, Conclusions of Law and Decision made by the hearing officer are hereby fully incorporated by reference herein.
- 3) The captioned administrative appeal is decided against Petitioner and in favor of the Respondent and Applicant.
- 4) The Secretary of the Commission is to provide copies of this Final Order to the parties.

Entered this \_\_\_\_\_ day of September, 2011.

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Jim DiPardo, Chairperson

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Dr. Gregory Haddock, Member

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Dr. Leslie Gertsch, Member

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Aaron Jeffries, Member

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Joe Gillman, Member

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John Madras, Member

\_\_\_\_\_  
Vacant, Member

Copies to be sent immediately by the Land Reclamation Commission to:

Stephen G. Jeffery and Bruce A. Morrison, JEFFERY LAW GROUP, 231 S. Bemiston Ave., Suite 800, Clayton, MO 63105, Attorney for Petitioner.

Laura Bailey Brown and Timothy P. Duggan, Assistant Attorney Generals, P. O. Box 899, Jefferson City, MO 65102-0899, Attorney for Respondent.

Brian E. McGovern and Robert A. Miller, McCARTHY, LEONARD, KAEMMERER, L.C. 400 South Woods Mill Rd., Ste 250, Chesterfield, MO 63107, Attorney for Applicant.

W. B. Tichenor, Hearing Officer, 3710 Shadow Glen Ct., Columbia, MO 65203-4844