

MORGAN COUNTY DRAINAGE BOARD

*June 3, 2008
11:00 A.M.*

DRAINAGE BOARD MEMBERS PRESENT WERE: NORMAN VOYLES (Commissioner), JEFF QUYLE (Commissioner), BRIAN GOSS (Commissioner), PETE FOLEY (County Attorney) and TERRY BROCK (Surveyor).

JOINT MEETING

Norman Voyles reconvened the Commissioners' meeting and called the Drainage Board meeting to order.

INDOOR SOCCER FIELDS

John Drapalik, Drapalik Surveying, stated that the intersection of Old SR 37 and SR 37, where construction on a motocross track was started and the tornado of 2002 destroyed, they would like to a 15,000 sq. ft. building for indoor soccer practice. Mr. Drapalik stated that they will plant grass on the site and there will be a retention pond. The pond was partially constructed by the previous facility. Mr. Drapalik requested conditional approval of the drainage plan. Mr. Drapalik stated that Tim Hunter is developing the site for rental to clubs, the field is not regulation size, and it will be used for indoor practice. The site is in the Martinsville buffer zone, the county only approves the drainage plan. Terry Brock asked if the site will have a stone parking lot or if it will be paved. Pete Foley stated that he thought the city would require a paved lot. Mr. Brock stated that the drainage plan has been reviewed and he is comfortable with allowing conditional approval. Jeff Quyle made a motion to approve the drainage plans, provided the conditions established by the Surveyor's Office are met. Seconded by Brian Goss. Motion carried 3-0.

HYDRAULIC PRESS BRICK

Pete Foley stated that this issue was tabled last month. There are three variance requests; one for the reclamation plan under the Mineral Extraction Ordinance that was requested on February 25, 2008, one for operation hours under the Mineral Extraction Ordinance that was requested February 25, 2008, and a request to file a reclamation plan under DNR guidelines rather than county guidelines under the Stormwater Management Ordinance and Mineral Extraction Ordinance. There is a variance procedure outlined in the Stormwater Management Ordinance. Section 1.4 of the ordinance that states that the application must first be made to the Surveyor's Office, then any appeal of that decision is taken to the Drainage Board for disposition. The variance request must provide the following information: specify the provisions of the ordinance or the design manual from which the variance is requested, clearly state the reason for the variance request and why the conditions of the ordinance can not be met, describe how the request does not diminish the protective standards for human health or environment set forth in the ordinance. Mr. Foley stated that for request #3, the procedure requirements could be waived and the issue taken directly to the Drainage Board. Another option would be to deny the request and require that the request be resubmitted in proper form. Mr. Foley stated that if all parties were agreeable, it would be prudent to waive the requirement and proceed with the hearing. Duane O'Neal, representing Hydraulic Press Brick stated that there is one more variance request that wasn't mentioned. Mr. O'Neal sent a letter dated May 5, 2008 requesting that IDEM oversight be substituted for the county Stormwater Management Ordinance. Mr. Foley added request #4 to the list, complete exemption from the Stormwater Management Ordinance in lieu of IDEM Rule 6 guidelines. Terry Brock stated that the county Stormwater Management is modeled after IDEM's Rule 13.

Bette Conway, Stormwater Coordinator, stated the reclamation plan is required under Section 3.2 of the Stormwater Ordinance. Ms. Conway stated that entities are allowed to opt under Section 12, which then exempts them from several items in the ordinance. However, an IMAA reclamation plan must still be filed. Mr. Foley stated that a definition of the reclamation plan is in the Stormwater Ordinance and reads as follows: a document illustrating drainage patterns, both existing and proposed, at a mineral extraction site, proposed erosion control, and all site sedimentation control, proposed final land use, and post construction stormwater quality, bmps for the site, all of which are documented at the initial approval of the stormwater maintenance permit and at 10 year intervals following approval. Jeff Quyle asked if the Stormwater Ordinance standards were more flexible than the Mineral Extraction Ordinance. Mr. Foley stated that Section 12 was more strict and defined and if IMAA standards were met, this would also meet Stormwater Ordinance standards.

Mr. Foley asked the applicant, Hydraulic Press Brick, if they would be willing to waive the requirement of the submission to the Surveyor's Office and consent to the Drainage Board deciding the issues. Mr. O'Neal stated that they would agree to waive that step. Jeff Quyle made a motion, based on the stated willingness of the applicant and the surveyor, to waive the procedures under Section 1.4 of the Stormwater Management Ordinance. Seconded by Brian Goss. Motion carried 3-0.

Variance Request #4

HPB requested a total exemption from the Stormwater Management Ordinance. Mr. O'Neal stated that they would always be required to comply with IDEM Rule 6; the Stormwater Management Ordinance is more stringent and there are two oversight authorities that they must comply with. Mr. O'Neal stated that this is an additional, unnecessary cost to both the county and HPB. Bette Conway stated that IDEM Rule 6 does not govern water quality standards in the same way that the Stormwater Ordinance does. Brian Goss stated that if something goes wrong, it would be the Commissioners that get the call, not IDEM. If the Board were to grant the exemption, they might as well do away with it completely. Brian Goss made a motion not to grant the exemption from the ordinance. Seconded by Jeff Quyle. Motion carried 3-0.

Variance Request #1

HPB requested that the plan submitted to DNR be substituted for the reclamation plan required under Section 12 b of the Mineral Extraction Ordinance. Brian Goss asked how close this plan is to what is required in the ordinance. Bette Conway stated that the Division of Reclamation plan does not contain all of the elements of an IMAA approved reclamation plan. There are only three shale operations in the state, and the Division of Reclamation's main focus is on coal mining. Mr. O'Neal stated that IMAA is guiding principals, not regulations and standards and is subject to subjective interpretation; this is what they are concerned about. They will always have to comply with DNR (Department of Natural Resources) reclamation and the land will be reclaimed according to DNR guidelines rather than standards that may be contradictory. Mr. Quyle asked if there was a requirement under IMAA guidelines to separate overburden as part of the reclamation process. Ms. Conway stated that there is a requirement to stockpile overburden materials, vegetate it, and use it for later reclamation. Mr. Quyle noted that when the Board toured the site a few weeks ago, it did not appear that the topsoil had been stockpiled in a manner that would be conducive towards reclamation. Mark Thacker, HPB Director of Operations, stated that there is very little topsoil in the area. Ms. Conway stated that IMAA guidelines allow for the addition of amendments to the material that is left or soil could be imported. Terry Brock stated that HPB has opted out of Section 12 of the Mineral Extraction Ordinance, which means that IMAA standards are to be used. HPB has asked that the DNR reclamation plan be used instead of the IMAA standards. Mr. O'Neal stated that they did not know if it would be cost effective to continue operations because the county references guiding principals instead of specific regulations. John Schwarz, HPB General Manager, stated that the land will be reclaimed, there will be grass, it will be sloped properly, and it will be taken care of; it is just burdensome to fall under two plans. Mr. Brock stated that once the initial permits are obtained and the fees are paid, there are not a lot of costs. Mr. Schwarz stated it was a matter of how many file drawers to manage. Jeff Quyle asked if the IMAA plan meets DNR standards, Mr. Schwarz stated that there is a difference regarding slope, IMAA does not address this. Ms. Conway stated that from the plan that was submitted, as a geologist, she can not tell what the site will look like; the reclamation plan is a document that is subject to change over time and she does not see it as over burdensome. Mr. Quyle stated that the Mineral Extraction Ordinance originally applied to traditional gravel pits, and HPB, a shale mining operation, has a different set of circumstances. Mr. Quyle asked if a DNR plan with additional requirements could be adopted. Ms. Conway stated that shale mining is specifically mentioned in the IMAA guidelines. Mr. Brock stated that the DNR plan does not look at drainage, but the Stormwater Ordinance does and the reclamation plan would need to show the drainage. Mr. Schwarz stated that HPB wanted to substitute the DNR plan because of the paperwork involved in having two plans, IMAA and DNR, and two sets of requirements for each plan. Ms. Conway stated that just providing additional information in addition to the plan already submitted would meet the requirements. Mr. Quyle asked if the DNR reclamation plan and Stormwater Ordinance reclamation plan would give Ms. Conway the required information. Ms. Conway stated that the only element missing would be the stockpiling requirements. Mr. Quyle stated that he would like to see some soil stockpiling requirements because he is concerned that currently the soil is mixed with the overburden in a way that diminishes its value when it comes to final reclamation.

Jeff Quyle made a motion to grant variance exemption request #1, allowing Hydraulic Press Brick to submit the DNR mining permit reclamation plan to the county in lieu of the IMAA reclamation plan, provided that HPB also submits the Stormwater Maintenance Ordinance reclamation plan by July 1st. Seconded by Brian Goss. Motion carried 3-0.

Variance Request #3

Jeff Quyle made a motion to deny variance exemption request #3. Seconded by Brian Goss. Motion carried 3-0.

Variance Request #2

Pete Foley stated that variance request #2 regards hours of operation. This regulation is found in Section 12d of the Mineral Extraction Ordinance. The provision states that an entity operating under this section shall not engage in production of aggregate material on New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day. Mr. O'Neal

stated that they must keep the kiln operating 24 hours a day and asked to be allowed to work on these holidays if necessary. Mr. O'Neal stated that HPB has commitments to the Town of Brooklyn. Mr. Foley read the provision that the Brooklyn BZA granted on November 27, 2007 as follows: "daily mining operations shall be restricted to the period of time beginning one hour before sunrise and ending one hour after sunset; provided however, that mining operations may be extended beyond such times due to extenuencies determined at the mine owner's discretion, but not more than 10 days annually."

Danny Miller, Brooklyn area resident, stated that he attended the BZA meeting and HPB has facilities to store enough shale to operate the silos for 18 to 24 hours. Mr. Miller mentioned his concerns regarding the dust, noise, and safety of children in the area.

Mr. Thacker stated that once the kiln is shut down, it takes 24 hours to heat it back up and it takes 10 hours to fill up the silo. A constant heating and cooling of the silo causes excessive wear and tear and HPB would like to keep the kilns running all the time. A discussion followed regarding plant operations and hours needed to operate. Jeff Quyle made a motion to grant a variance to the Mineral Extraction Ordinance operation hours so that HPB would have to comply with the Brooklyn requirement of an hour before sunrise and an hour after sunset except on the seven holidays listed in Section 12d of the ordinance (New Year's Day, Easter, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas) they could operate from 10 am to 4 pm for purposes of getting the kilns filled up. Seconded by Brian Goss. Motion carried 3-0.

STORMWATER COORDINATOR / MINERAL EXTRACTION UPDATE


Bette Conway stated that eight inspections were conducted, two reviews were approved, several drainage complaints, five of which were addressed. The Upper White River Watershed discussed a September river cleanup that will be conducted all along the watershed. All MS4 entities were billed for their portion of the 2008 educational fund. Ms. Conway stated that there will be a Tox-Away Day in Mooresville on June 14th, there will be one in Martinsville on October 18th. Countywide river watch training will be July 15th. The Surveyor's Office met with Rockies Express and they provided a map of the pipeline route along with permits and other paperwork. There will be an MS-4 booth at the fair and they will have a rain barrel give away.

Jeff Quyle stated that the North Madison School participated in a White River Cleanup last weekend.

ADJOURNMENT

Jeff Quyle made a motion to adjourn the joint Drainage Board and Commissioner meeting. Seconded by Brian Goss. Motion carried 3-0.

MORGAN COUNTY DRAINAGE BOARD



Terry Brock, Surveyor



Norman Voyles, Commissioner

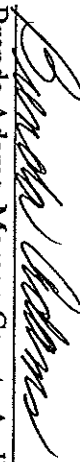


Jeff Quyle, Commissioner



Brian Goss, Commissioner

ATTEST:



Brenda Adams, Morgan County Auditor