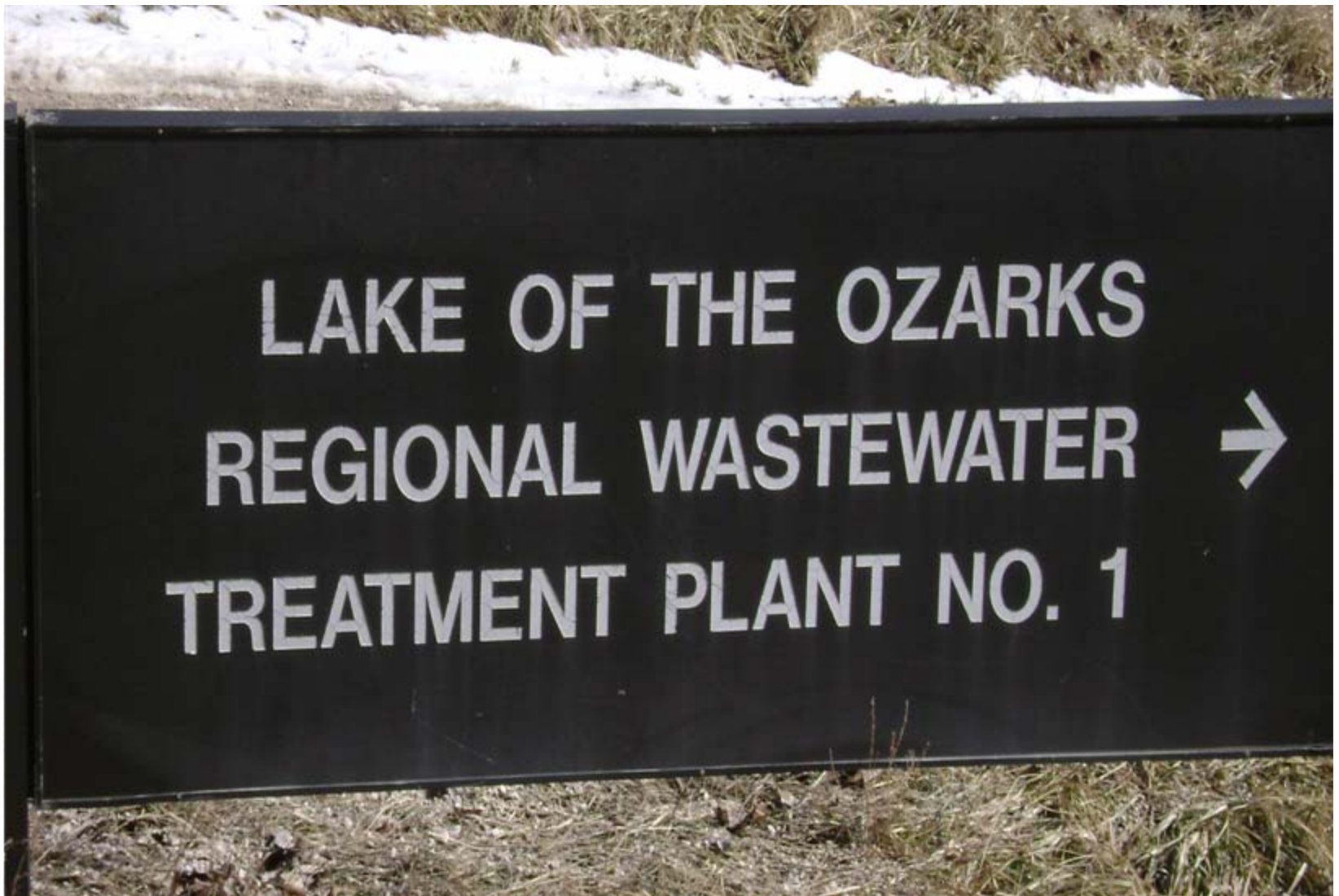


**Having a blast with
Magruder
Limestone**



The Object of Our Affection



Three million gallon capacity. Osage Beach lines carry 1 million gallons per day.

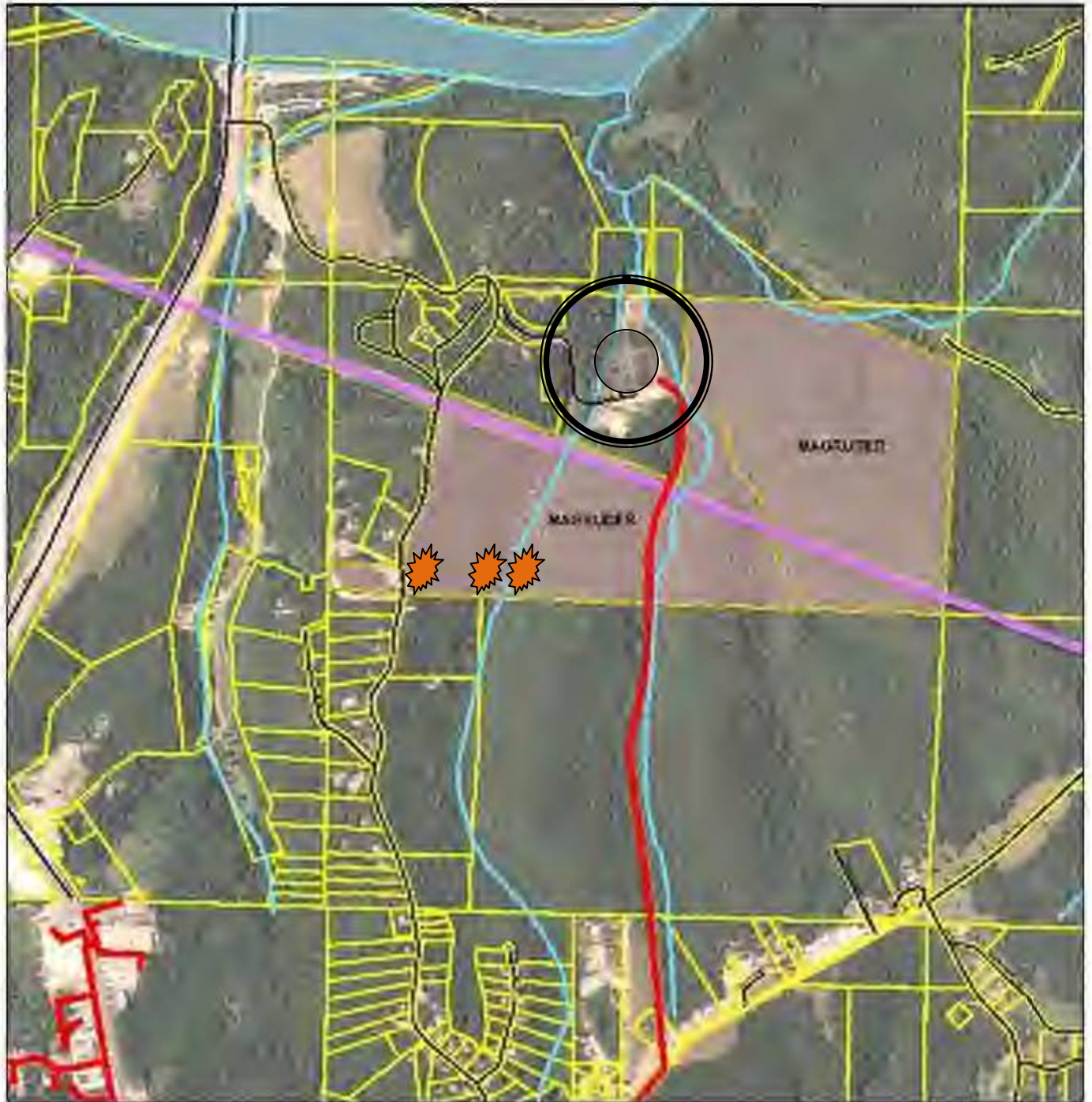


City of Osage Beach

Legend

- ROADS
- STREAMS
- SEWER
- POWER LINES
- MAGRUDER
- OSAGE RIVER
- PARCELS

4



How we got here.

- Magruder Limestone applied to the Dept. of Natural Resources in April, 2007, for a 100-year land reclamation permit to operate a 200-acre surface mine on Woodriver Road.
- DNR Land Rec. director Larry Coen recommended approval. His staff had not visited the site and Magruder had left the water treatment plant, the sewer lines and Ameren's high voltage lines off the application map.
- Magruder subverted the intent of the notification process to keep adjacent landowners in the dark.

How we got here #2.

- The joint sewer board and local residents requested a formal hearing to present their case against the permit.
- First we had to convince the Land Reclamation Commission to grant the hearing, which they did for only the third time ever. Such permits are routinely granted if the application is complete.
- Osage Beach and our Concerned Citizens group both hired attorneys to represent us at the formal hearing, which was a legal proceeding.
- W.B. Tichoner, an attorney for the Missouri tax commission, was appointed hearing officer by DNR.

Land Reclamation Commission

- **Staff Director:** Larry Coen
- **Number of Members:** 7 members

Number of Members Appointed by Governor: 4 members

Special Membership Requirements: One public appointed member shall have training and experience in mining, but only one can have any direct connection to the mining industry; 3 statutory members are the Department of Conservation Director, the State Geologist, and the Staff Director of the Missouri Clean Water Commission.


- **Board Function:** The Missouri Land Reclamation Commission sets policy for the program, adopts regulations, and hears appeals of staff permitting and enforcement actions. The Commission also assesses penalties for violations of law and orders, after a hearing, revocation of permits and forfeiture of bonds for failure to comply with the land reclamation laws.

Board Mission Statement: The Missouri Land Reclamation Commission assures beneficial restoration of mined lands and to protect the public health, safety, and the environment from the adverse effects of mining within the State of Missouri.

How we got here #3.

- The formal hearing process began in October, 2007 and went until June, 2008.
- Upon the recommendation of the hearing officer, the LRC granted the permit with restrictions.
- Throughout this time, Concerned Citizen members sought the support of area legislators and numerous groups, including LOWA, the Lake Area Chamber, Tri-County Lodging Association, Waste Watchers, The Visitors and Convention Bureau, the Osage school board, the Board of Realtors, Miller County Commission and DNR director Doyle Childers.

Restrictions to Land Rec. permit

- IT IS RECOMMENDED by the undersigned, a hearing officer duly appointed by the Land Reclamation Commission of the Missouri Department of Natural Resources, that the Application for Expansion of Permit # 0086 is: (1) denied as to the area in the Application East of the Sewer line easement; and (2) approved for the area West of the Sewer line easement, with the following Special Conditions: 
- **Blasting** – All blasting shall be specifically planned, directed and monitored by a licensed blaster under the Missouri Blasting Safety Act and shall only be conducted on weekdays between the hours of 8 a.m. and 5 p.m., Central Standard or Central Daylight Time, as is applicable.
- **Blasting Distances** – Blasting shall not be conducted closer than 200 linear feet to the nearest easement line of the Osage Beach sewer line easement.
- **Blast Plan** – Applicant's Blast Plan (Exhibit APP – 7) is incorporated by reference as if set out in full in this Order, a copy is attached to this Recommended Order. In the event, modifications of the Blast Plan are deemed necessary by conditions encountered in the mining at the subject quarry, the modifications to the Blast Plan shall be filed with the Land Reclamation Program as part of the file for Permit # 0086.
- **Seismographs** – Multiple seismographs shall be maintained and operated to monitor the Sewer Treatment Plant and the sewer lines. The seismograph records shall be made available to the Joint Sewer Board and the City of Osage Beach for inspection upon reasonable request. The seismograph records shall be made available to the Land Reclamation Program in accordance with any routine or special inspection of the Bowlin Hollow Quarry. An annual report of the seismograph data shall be made to the LRC Program.
- **Elevation of Mine Floor** – The elevation of the floor of the mine (quarry) shall run at or above the grade of the City of Osage Beach's sewer line easement as it crosses the Magruder property, so that no blasting holes will be drilled to a depth that would be below the elevation of that grade.

Where we are now

- Motions were filed in Miller and Lincoln counties.
- Magruder started blasting.
- A temporary stay of the original permit was granted by Circuit Judge Oswald on Sept. 11.
- Stay was continued after a hearing on Sept. 15.
- Magruder resumed blasting on Sept. 16 under a new land disturbance permit on which they changed “quarry” to “land development.”
- Blasting was stopped by Judge Kinder on Sept. 25, though all other “development” operations are allowed.

Where we are now and what happens next.

- Now we wait for judicial review of original Land Reclamation permit. This requires the judge to review the entire record to determine if the permit was granted legally. This could take several weeks.

<http://dnr.missouri.gov/env/lrp/magruder.htm>

- His decision is likely to be appealed. The case would then go to the Court of Appeals.
- Case # **08ML-CC00106** on Case.net.

Making the Case

- The permit application was not complete, which is the only criterion for approval.
- There was no lease agreement with the land owner.
- The hearing officer used evidence in his order that was not in the record.
- He placed the burden of proof on the petitioners instead of on Magruder as required by statute 444.773.4.

What happens next?

- Fight through the courts. The last time LRC granted a hearing, it took seven years before the case was settled.
- Oct. 3, Director Childers held a public meeting at the Eldon Community Center. His answer to “What is his plan to avoid future fiascos like the Magruder permit” was that it will be up to us to change the process through legislation. He is bound by the regulatory structure. He takes no role as a public advocate.

Concerned Citizens of Miller and Camden County
