



January 24, 2008

Mr. Murray J. Balk, Chief
Surface Mining Section
Kansas Dept. Health & Environment
4033 Parkview Drive
Frontenac, KS 66763

Dear Murray:

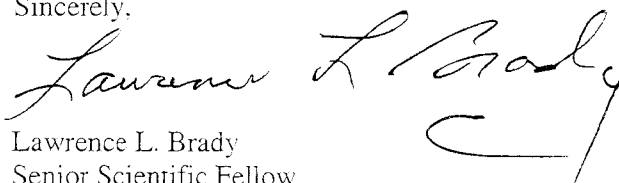
I have reviewed the information that you sent to the Kansas Geological Survey concerning the new permit application (BB-SM-1404) to surface mine coal on 120 acres in portions of the SE1/4 and the SW 1/4 of Section 3, T. 27 S., R. 25 E., in southeast Bourbon County, Kansas. It is my understanding that the new permit requested by the Phoenix Coal Company, Inc. will be for the company's Garland Mine. Coals that are expected to be mined in this new permit include the Bevier, Croweburg, and the Fleming coals in a multi-seam operation. As mentioned in my letter of December 12, 2006 concerning the permit BB-SM-1403 for Phoenix Coal in parts of Sections 11 and 12, T. 27 S., R. 25 E., I still believe the coal referred to in the permit as the Fleming coal, is actually the Mineral coal. I do not think this small opinion difference on the name of the coal that is planned to be mined as the bottom coal is a problem of concern. I find no problems with the information submitted, and I do not anticipate any new problems with the new mine area would differ from the minor pH problems in the adjacent earlier permit areas where these same coals were mined.

In general, I do not anticipate any serious problems with mining of coal in this new permit area if normal care is taken with segregating and burying of the pyritic materials removed from the coal or closely associated with the coal. It was noted that some intervals of acid-forming materials could be present and possibly of concern based on overburden analyses, but with care and material blending that should not present a problem. Assuming your normal controls on preventing exposure of low pH areas following mining as required by Kansas laws and regulations, conditions for this new permit should not vary from your experience with earlier mined areas of the Garland Mine that are adjacent to this requested new permit and mainly mining the same coal beds.

The above discussion represents our best assessment based on the information that the Kansas Geological Survey has about this locality and/or proposed project at the time of this writing. Other geologic conditions, not discussed herein, or for which the Kansas Geological Survey has no knowledge, may affect the viability or safe operation of this facility or property.

Best wishes on completion of your permit review.

Sincerely,


Lawrence L. Brady
Senior Scientific Fellow



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

January 16, 2008

Kansas Geological Survey
1930 Constant - Campus West
University of Kansas
Lawrence, Kansas 66045

Phoenix Coal Company, Inc. has submitted permit application BB-SM-1404 to the Kansas Department of Health and Environment, Surface Mining Section, to operate a coal mine on

120 acres in a portion of the SE 1/4 and the SW 1/4 of Section 3, Township 27 South, Range 25 East in Bourbon County, Kansas.

Per the MOU between our agencies, enclosed is section 780.22, a location map, and a permit area description.

Copies of the complete permit application including a detailed description of the proposed operation are on file at the following locations:

Surface Mining Section
4033 Parkview Drive
Frontenac, Kansas 66763

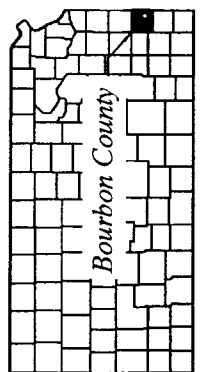
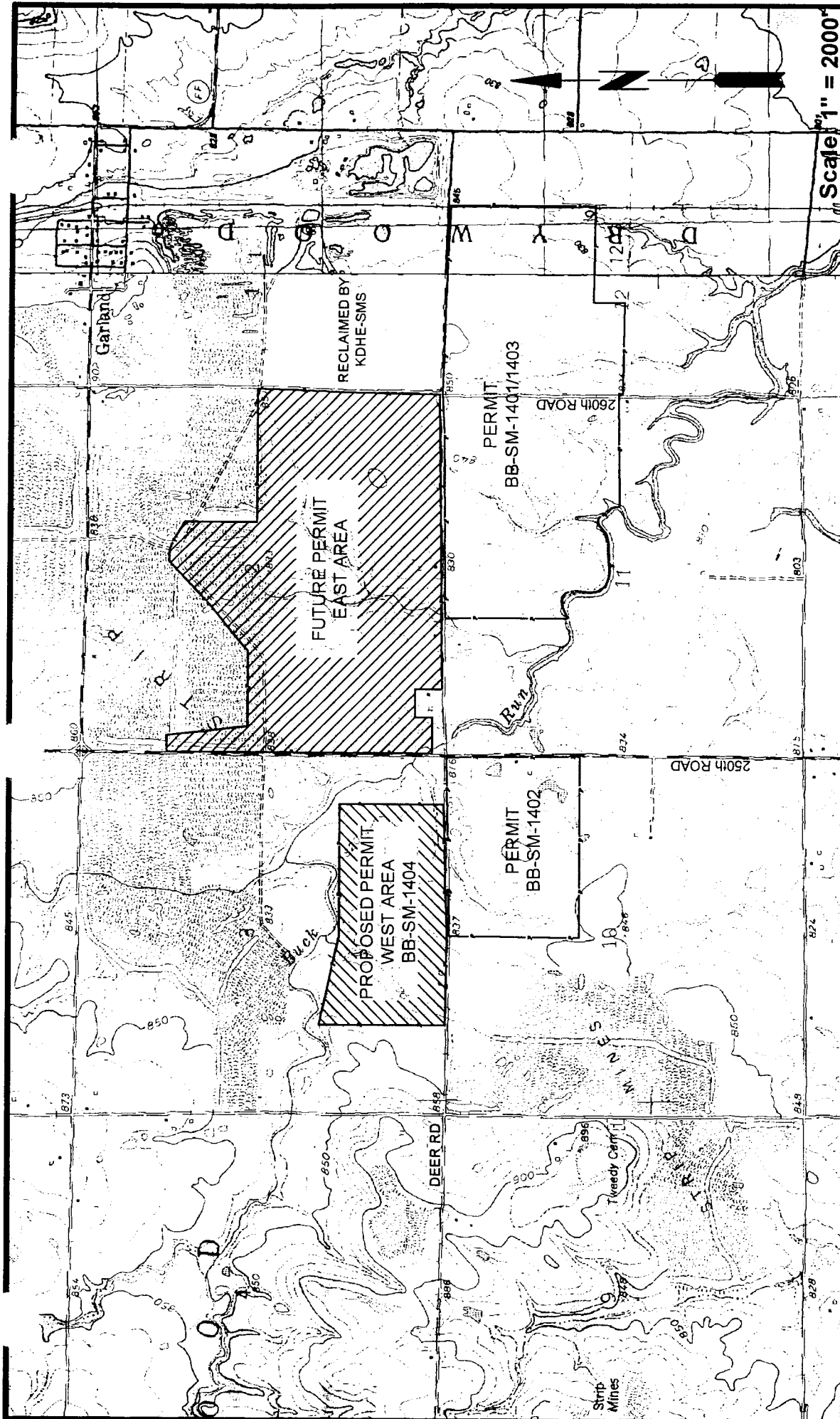
KDHE - Bureau of Environmental Remediation
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

Bourbon County Courthouse
Fort Scott, Kansas 66701

Please provide any comments you may have regarding this permit application to the Surface Mining Section by **January 31, 2008**. If you have any questions please do not hesitate to contact this office at (620) 231-8540.

Sincerely,

Murray J. Balk, Chief
Surface Mining Section



-  Permit BB-SM-1404
-  Future Permit Area

PHOENIX COAL COMPANY, INC. **GARLAND MINE, BOURBON COUNTY, KS** **LOCATION MAP**



Other documentation not scanned.
Available in open file.