

March 6, 2008

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

Dear Murray:

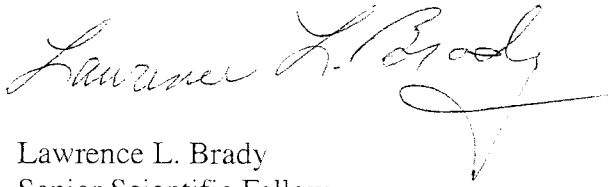
I have reviewed the information that you and Tim Wilson sent to the Kansas Geological Survey concerning the new permit application (BB-SM-1405) by Phoenix Coal Company, Inc. to surface mine coal on 312 acres in parts of the S/2 of Section 2, T. 27 S., R. 25 E., in southeast Bourbon County, Kansas. It is my understanding that the new permit requested by Phoenix Coal will be for the company's Garland Mine with mining in the adjacent section from recent mining operations. Coals that are expected to be mined in this new permit area include the Bevier, Croweburg, and the Fleming coals in a multi-seam operation. As mentioned in my letter of December 12, 2006, and later in my review letter of January 24, 2008 concerning permits BB-SM-1403 and BB-SM-1404 for the Phoenix Coal Garland Mine I still believe the coal bed referred to in the permit applications as the Fleming coal, is actually the Mineral coal. However, 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 this requested new mining area that would differ from the minor pH problems identified 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 thin intervals of acid-forming materials are present in the overburden that might possibly be of concern based on overburden analyses. With care and blending of material with a higher pH, the problems should be corrected--assuming your normal controls on preventing exposure of low pH areas following mining as required by Kansas laws and regulations. The conditions for mining on this new permit should not vary from your experience with earlier mined areas of the Phoenix Garland Mine where the same coal beds were mined.

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,

A handwritten signature in cursive script, reading "Lawrence L. Brady". The signature is written in dark ink and is positioned above the printed name and title.

Lawrence L. Brady
Senior Scientific Fellow



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

February 26, 2008

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

Phoenix Coal Company, Inc. has submitted permit application BB-SM-1405 to the Kansas Department of Health and Environment, Surface Mining Section, to operate a coal mine on

312 acres in portions of the S 1/2 of Section 2, 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 **March 17, 2008**. If you have any questions please do not hesitate to contact this office at (620) 231-8540.

Sincerely,

A handwritten signature in cursive script, appearing to read "Murray J. Balk".

for Murray J. Balk, Chief
Surface Mining Section

DIVISION OF ENVIRONMENT
BUREAU OF ENVIRONMENTAL REMEDIATION
SURFACE MINING SECTION

4033 PARKVIEW DR., FRONTENAC, KS 66763

Voice 620-231-8540

Fax 620-231-0753

<http://www.kdhe.state.ks.us>

Permit Area Description

(BB-SM-1405)

The Permit area is described as follows:

East Area-

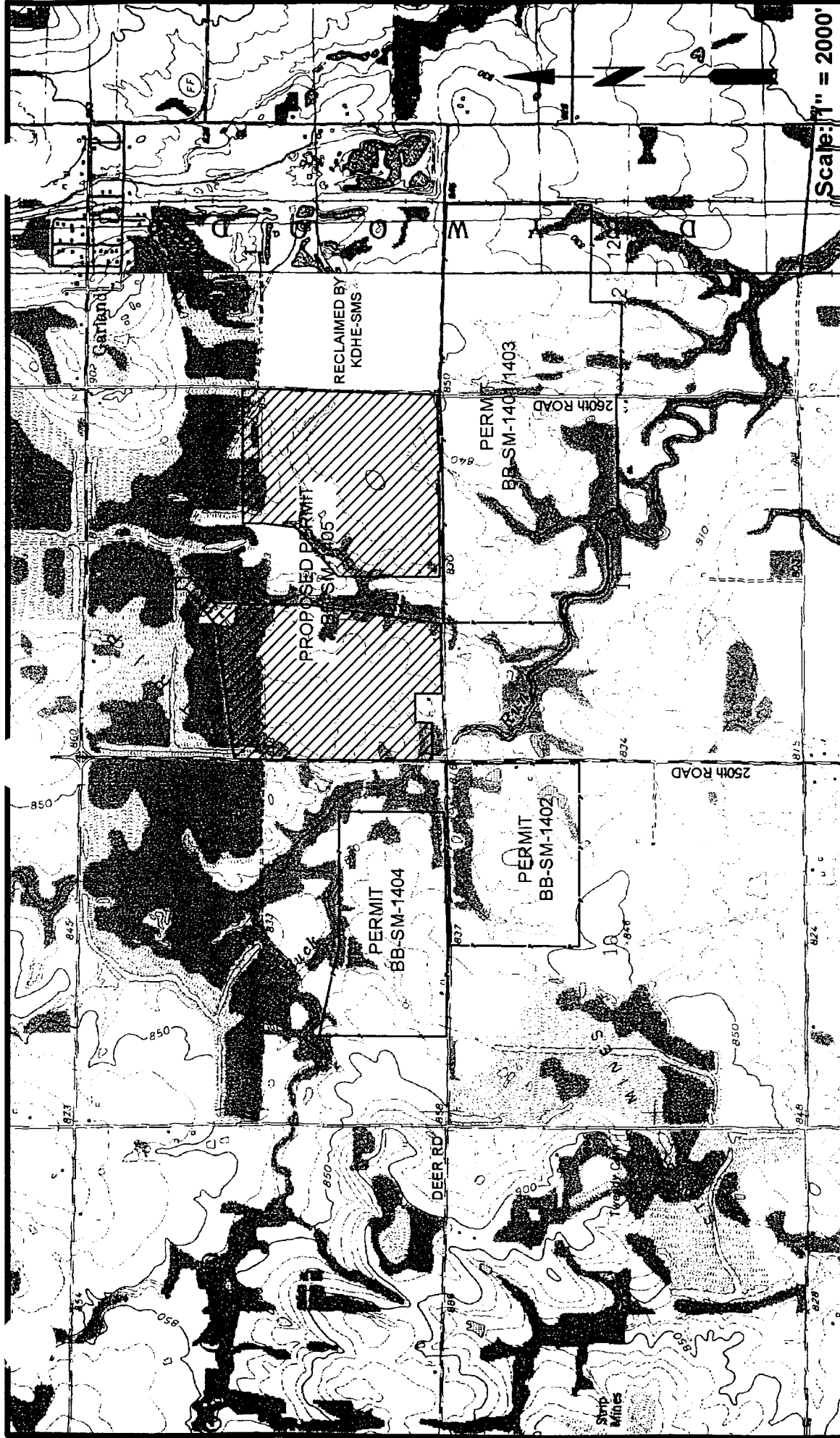
The land containing 158 acres, more or less, being situated in Sections Two (2) and Eleven (11), Township Twenty-Seven South (T27S), Range Twenty-Five East (R25E), Bourbon County, Kansas being more particularly described as follows:

Beginning at a point 25 feet North and 25 feet West of the Southeast Corner of the Southeast Quarter of said Section Two; thence S88°59'03"W along the North Right-of-Way line of Deer Road approximately 815.4 feet; thence S00°14'44"E, 50 feet to a point on the south Right-of-Way line of Deer Road; thence S88°59'03"W along said South Right-of-Way line, 300 feet; thence N00°14'44"W, 50 feet to said North Right-of-Way line of Deer Road; thence S88°59'03"W along said North Right-of-Way line approximately 1512 feet to a point on the West line of the Southeast Quarter of said Section Two; thence N00°00'00"E along said West line approximately 1492 feet; thence N48°03'03"E approximately 939 feet; thence N06°38'40"E approximately 462 feet; thence N00°00'00"E approximately 329 feet; thence N90°00'00"E approximately 1937 feet to a point on the West Right-of-Way line of 260th Road; thence S01°14'27"W along said West Right-of-Way line approximately 2862 feet to the point of beginning.

West Area-

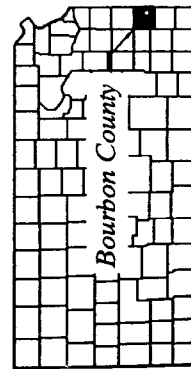
The land containing 154 acres, more or less, being situated in Section Two (2), Township Twenty-Seven South (T27S), Range Twenty-Five East (R25E), Bourbon County, Kansas being more particularly described as follows:

Beginning at a point 25 feet East and approximately 170 feet North of the Southwest Corner of the Southwest Quarter of said Section Two; thence N00°05'09"W along the East Right-of-Way line of 250th Road approximately 2471 feet; thence continuing along said East Right-of-Way line N00°47'01"E approximately 418 feet; thence N82°33'49"E approximately 1919 feet; thence N49°38'59"E approximately 696 feet; thence N00°13'14"E approximately 159 feet; thence N89°06'29"E approximately 169 feet; thence S00°59'21"W approximately 216 feet; thence S45°42'37"W approximately 513 feet; thence S00°06'46"W approximately 1321 feet; thence S07°37'10"W approximately 1994 feet to a point on the North Right-of-Way line of Deer Road; thence S89°17'13"W along said North Right-of-Way line approximately 1007 feet; thence N00°00'00"E approximately 387 feet; thence N90°00'00"W approximately 415 feet; thence S00°00'00"E approximately 252 feet; thence N90°00'00"W approximately 545 feet to the point of beginning.



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

Permit BB-SM-1405



Map Date 12/2007

USGS Garland & Cato Topographic 7.5 Minute Quadrangle

Z:\Land Projects 3175-16\dwg\Base.dwg(Loc)

Other documentation not scanned.
Available in open file.