



# NATIONAL ASSOCIATION OF STATE LAND RECLAMATIONISTS

<http://www.crc.siu.edu/naslr.htm>

**July 2008**

## PRESIDENT'S COLUMN

### SUCCESS

*Lou Neuman*

**Department of Environmental Protection**

I have heard success defined as the achievement of a worthwhile goal. To decide if you are meeting your goals, you need to decide what you are trying to accomplish. What is it that is important to you? What are your values? What are your priorities in work and in life? How much effort are you willing to put in to achieve the results? Below are some values that I consider when measuring success.

**Family Values** Our membership is composed of individuals that place a high importance on family values. We make personal sacrifices for our families. We have members working past the time they could retire because they want their children to get a college education. We have members who come to our meetings with spouses and family members because they know it is important to spend time with family in different settings. The meetings are a great place to see a different part of the country and they want to share that experience with their spouse/family. Are you planning to strengthen your family values this year?

**Friends** Being a national organization, we have an opportunity to make friends with reclamationists across the nation and beyond. We have a vast wealth of knowledge in our membership and these members are willing to share their resources. We get to know the professional side of a person during the technical presentations. During the breaks, field trips, and after business hours, we get the opportunity to add them as friends. Share some laughter with a new or old friend.

**Competency** If there is one thing that I believe everyone will agree upon in this organization, it is that reclamation is a complex subject. It involves geology, hydrology, biology, forestry, engineering, accounting, knowledge of soils, and people skills. It involves people who do inspections, work with computers, and keep up with mining and reclamation plans. Reclamation often involves communications with archaeologists, wildlife experts, environmental groups, governmental entities, lawyers, mine operators, etc. As a member of NASLR for 20 years, I am confident that NASLR consists of many experts. Be sure to attend the upcoming meeting and keep current on reclamation techniques.

**Spiritual** For thousands of years and throughout many cultures, people have worshiped and prayed. I have observed young children wanting to say the blessing before a meal. It has been said that a family that prays together, stays together. People pray for many different reasons. We all have much to be thankful for.

**Richness** If we measure richness in terms of salary dollars of NASLR members, we are not counted among the rich and famous. If we measure richness in terms of seeing natural beauty, managing our natural resources, and achieving diversity, I believe NASLR members are extremely rich. If given a choice between being rich and famous or being happy and healthy, what would you choose?

**The next newsletter will feature articles from Illinois, Kansas, Ontario, Oregon, and South Carolina. Deadline for copy to be received at the Coal Research Center office is September 30, 2008.**

**2008 NASLR Conference  
September 14-17**

**Seven Springs Mountain Resort and Conference Center  
Champion, PA**

Attention all NASLR members, state affiliates, land reclamationists, and friends: it's time to register for the 2008 NASLR conference at Seven Springs in the Laurel Highlands of Southwestern Pennsylvania. A couple of you have reported difficulty accessing the conference web site because the address was too long, so here's a shortened version. Please click on this link for the conference agenda, additional information about the conference, hotel information, and things to do in Pennsylvania's Laurel Highlands.

<http://www.dep.state.pa.us/dep/deputate/minres/bmr/conf/08NASLRconf.htm>

Registration: Please send your registration form and check for the appropriate amount to NASLR Secretary/Treasurer Linda Hiltabrand as soon as possible as it will help us better plan the conference. The registration form is attached to the back of the newsletter. Your registration fee includes the annual

banquet, field trip, and barbeque. Note that the registration for spouses and guests not attending the conference sessions is reduced, but they must register separately for the spouse tour on Monday.

**Hotel:** In order to receive the conference hotel rate of \$125, you must contact the hotel directly and mention that you are attending the NASLR conference. Hotel reservations must be made by August 15 in order to be assured a room at the conference rate. Seven Springs Mountain Resort's number is 814-352-7777 or 800-452-2223. The hotel room charge includes a buffet breakfast.

**Getting There:** Seven Springs is readily accessible by car via the Pennsylvania Turnpike (I-76). From the east, take the Somerset Exit then PA 31 West and follow the signs. From points west, take the Donegal Exit, then PA 31 East to PA 381 South and turn left at the sign for 7 Springs. For those of you flying, the closest airport is the Latrobe, PA airport which is served by US Air and Northwest Airlink. It is approximately 30 minutes to Seven Springs. The Pittsburgh Airport, which is served by most major airlines, is approximately 1-1/2 hours from Seven Springs. For further information on getting to Seven Springs, check the hotel web site which can be accessed from the NASLR conference web page.

**What to Bring:** If you're going on the field trip, please bring a hard hat and sturdy field clothing and shoes. A box lunch will be provided. Weather in September can be either warm or chilly so you need to be prepared for both. Also, to take advantage of the recreational opportunities available at Seven Springs and in the Laurel Highlands, you will want to consider bringing a swim suit, hiking boots, golf clubs, your tennis racquet, fishing gear, and a bicycle for the Yougiogheny Rail Trail or nearby mountain biking trails.

**Member States:** Member states (and provinces) that have a representative at the meeting will be asked to file a brief report on reclamation activities in their state. Of particular interest are new and innovative programs, projects and problems that your state has encountered. Sharing of this sort of information allows state agencies to compare notes and is one of the most valuable aspects of NASLR. Also, if you have any particular topics or problems that you would like to have discussed by the group, please let us know in advance of the meeting so that it can be placed on the agenda.

For more information: Contact PA conference coordinators Michael Smith at [michaesmit@state.pa.us](mailto:michaesmit@state.pa.us) or Tammy Cree at [tcree@state.pa.us](mailto:tcree@state.pa.us).

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## STATE NEWS/REPORTS

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### FLORIDA

*Lou Neuman*

#### Department of Environmental Protection

The past year has been a challenging one for staff working in the non-phosphate section. It is an extremely busy section with responsibilities throughout the state. It works with 5 different water management district rules, plus the reclamation rules for the various resources being extracted. The size of the mines ranges from a few acres to thousands of acres. The section has been inundated with environmental resource permit (ERP) applications. These applications contain information on the existing land use, the proposed land use, wildlife, historical resources, delineated wetlands, wetland mitigation, hydrology, stormwater management, engineering components, soils, monitoring, mining plan, etc. The applicant must provide reasonable assurance that there will be no net loss of wetland functions. The small staff must review the application and request additional information within 30 days of it being received (includes weekends and holidays) or consider it complete. Due to the complexity of the applications, the number of applications, and the review times of the applications, staff is very aware of the work load. What is causing all the ERP applications? In my opinion, the following two factors have contributed to the dramatic increase in applications:

**Court Ruling:** There is an area in south Florida known as the Lake Belt (basically Northwest Miami-Dade County). This is an area where a large percentage of the limestone is extracted in the state. The limestone is used in home and road projects. A US District judge ruled that the Army Corps of Engineering should not have issued some permits and halted the digging. Either it was coincidence or planning, but a lot of ERP's applications for limestone mines in other areas were received in the past year. While a federal appeals court lifted the rock ban in May, I suspect this won't be the end of legal opinions regarding limestone mining in south Florida.

**Housing Market:** Hardly a day goes by that there isn't something in the news about the housing market and the economy. It seems foreclosures are up, houses remain unsold, and people are concerned. What does this have to do with mining? Many people in Florida like waterfront property. I have seen companies extract and sell the sand or limestone (which generates revenue), create a lake (appealing to a broader market), and then sell the land as waterfront property (at a higher price). Getting approvals now, may mean a company will be ready in the future.

I look forward to seeing you at the conference in Pennsylvania. I plan to give more information during the State Report portion of the meeting.



# TENNESSEE

## Tennessee AML Reclamation Contracts July 1, 2007 – June 30, 2008 Tim Eagle

1. Fork Mountain, Campbell County, demolished and disposed of an old dangerous coal loading facility and backfilled and closed six horizontal mine openings.
2. White Horse Branch, Morgan County, backfilled an 11-acre contour surface mine, eliminating dangerous highwalls, some as high as 75 feet.
3. Little Laurel, Morgan County, acid mine drainage from abandoned underground mine workings was diverted through two newly constructed AMD treatment systems and backfilled a 13-acre contour surface mine, eliminating pits and dangerous highwalls.
4. Will Hobbs, Morgan County, backfilled a 30-acre contour surface mine, eliminating pits and dangerous highwalls.
5. Green Sea, Van Buren County, an 81-acre surface mine was backfilled and revegetated. The site exhibited hazardous highwalls, dangerous impoundments and illegal dumping prior to reclamation.
6. Freemont 2, Grundy County, a 99-acre area surface mine was backfilled and revegetated. Reclamation eliminated hazardous highwalls, large dangerous impoundments and illegal dumping prior to reclamation.
7. High Point Landslide, Scott County, planted tree seedlings and ground cover seed on an old 23-acre slide.

Total acreage reclaimed.....258  
Cost.....\$2,178,916.02

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*Bruce Ragon*

### Tennessee Department of Environment and Conservation

It has been an interesting year (legally) in Tennessee. A situation developed which brought to light many landowner concerns and ambiguities in the existing mining law.

The rock harvesting industry has exploded in the state over the past five years. By rock harvesting, we are primarily referring to decorative or landscaping stone, although some building facings are also finished with these products. Predominately sandstones, the products include river rock, field stone, dimension stone and some quarried stone. The dimension stone and quarried stone are usually mined from outcrops and deposits which have distinct bedding planes and cleave easily

resulting in slabs which may be used as is, or cut and/or polished to order. Field stone and river rock are usually harvested with heavy equipment then sorted and packed on pallets by hand, although smaller operations may employ all hand labor for the work. At a few sites, primarily in Middle Tennessee, limestone is harvested for decorative purposes. Some limited markets for slate and shale also exist but are limited due to the lower durability of these types of rocks.

In general, these operations are exempt from the *Tennessee Mineral Surface Mining Law of 1972*, but require either a general storm water or individual permit under the NPDES program. The exemption under the mining law stems from the definition of mineral as found in the Tennessee Code Annotated (TCA) § 59-8-202 (a) (7) which states:

“(A) “Mineral” means, in any county having a population of more than six hundred thousand (600,000) according to the 1970 federal census or any subsequent federal census, clay, stone, gravel, sand, phosphate rock, metallic ore and any other solid material or substance of commercial value found in natural deposits on or in the earth, but does not include limestone, coal, marble, chert or dimension stone;

(B) “Mineral” means, in any county having a population of six hundred thousand (600,000) or less according to the 1970 federal census or any subsequent federal census, clay, stone, phosphate rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth, but does not include limestone, coal, marble, chert, gravel, sand or dimension stone;”

Did you catch the difference in the two sections? Sand and gravel (which can include sandstone that may be processed into those products) are only subject to the mining law in counties with a population over 600,000. In Tennessee, only Shelby County (Memphis) meets this criterion. This exemption, along with the statewide exemption for dimension stone (which has, sometimes erroneously, been applied to rock harvesting operations) explains why the rock harvesters do not have to obtain mining permits and, consequently, are not required to reclaim their disturbance except to the degree needed to maintain stability as defined in their NPDES permit.

In 2007, a rock harvesting operation began along a portion of the Cumberland Trail State Park. This “park” is actually a system of trails that run from the Prentice Cooper State Forest, just west of Chattanooga, to Cumberland Gap on the Kentucky-Tennessee border north of Knoxville. While the state owns the surface rights to the park, the mineral rights were severed on this section and the mineral owner began to mine close enough to the trail so as to be a hazard to hikers and the structural integrity of the trail. The state filed suit to stop the mining. The mineral owner’s rights prevailed and the case is currently under appeal by the state.

This department fielded many questions both during and after the original case. They centered around the definition of a mineral. The court had determined that the mineral rights owner had a legitimate claim to remove the material (the right to mine when mineral and surface estates have been severed was litigated in the late 1970’s with mineral recovery rights

being upheld). The rub was that, by definition in the mining law, the rock was not considered a mineral for permitting purposes. Numerous private landowners with severed surface and mineral rights voiced their concerns to their legislative representatives from the onset of the lawsuit. Fourteen (14) conservation and citizen's rights groups have filed amicus briefs in support of the state in the appeal.

Consequently, several versions of amendments to the mining law were introduced during the most recent legislative session. These ranged from requiring mining permits on all types of operations (while also generating a general NPDES permit category for mining) to simple changes in the definition of a mineral that attempted to include rock harvesting under the law. The definition scenario was particularly interesting. Lobbyists for companies quarrying limestone (the largest mined commodity in the state) and some other currently unregulated industries watched all proposals carefully to ensure that the wording did not allow for loopholes that might include their interests and require a permit under the mining law (these industries are covered under the provisions of the NPDES program). As an exercise in futility, try to write a definition of "rock harvesting" that would fall within the confines described above. As more and more special interests became involved and introduced their own nuances to proposed changes, it became apparent that no compromise would be met in time to present an amended law during this session. A workshop is planned for this summer to attempt to produce a more palatable version for the next legislative session.

An unfortunate, and innocent, victim in this process was our attempt to expand the types of bonding instruments that may be posted for reclamation. Presently the only instruments allowed by the mining law are: surety bonds, cash, negotiable United States treasury bonds, or negotiable general obligation municipal or corporate bonds with at least an "A" rating by Moodys and/or Standard and Poors rating services. Our Fiscal Services Department has determined that U.S. treasury bonds can no longer be worded in such a manner that they can be accepted so there are only three options. With surety bonds difficult to obtain and very expensive, the options are limited even further. Our proposal was to include, at least, Irrevocable Letters of Credit and Certificates of Deposit, to allow more bonding flexibility. Being a part of the entire legislative package, this proposal died with the bill.

Hopefully, with time for more communication between all involved parties, a bill can be presented next session that addresses newly voiced concerns in addition to the inadequacies of a law that has remained unchanged for 36 years while the regulated industries have continued to move forward. Stay tuned.

## **PENNSYLVANIA**

### **Request for State Reports at the Annual Meeting**

*Michael W. Smith*  
**Pennsylvania DEP**

This is a reminder for any of you who are planning to attend this year's NASLR conference at Seven Springs, Pennsylvania. Following the technical presentations, we will convene a meeting of NASLR member states. Attendees from member states will be asked to give a report on mining and reclamation activities in their state. The report can be brief, but please be sure to discuss anything new or novel your state is doing or current problems your state is facing. One of the chief benefits from attending a national reclamation conference is the opportunity to learn from your peers in other states. Member states (and province) currently include Arkansas, Alaska, Florida, Indiana, Illinois, Kansas, Louisiana, Maryland, Mississippi, Missouri, New York, North Carolina, Oklahoma, Ontario, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia, Washington, and West Virginia. Also, we would like some feedback as to what topics would be of interest for further discussion at the state's meeting. Some ideas are: the future direction of NASLR, long-term planning for future meeting locations, bonding rates and long-term financial guarantees. Any ideas you have for meeting topics, please email to [michaesmit@state.pa.us](mailto:michaesmit@state.pa.us).



## 2008 NASLR Conference

Seven Springs Mountain Resort – Champion, PA

September 14 – 17, 2008

Web site: <http://www.dep.state.pa.us/dep/deputate/minres/BMR/BMRhome.htm>

### Registration Form

Last Name	First name (for receipts) and preferred name for name tag
Title	State/Organization/Department
Street Address	Telephone (Including Area Code)
City	Email:
State	Zip Code
Spouse/Guest Name	
Let us know here if you require special food or physical accommodations.	

**Registration and Fees** – Please indicate the activities which you and your spouse/guest will participate. Early registration is encouraged to assist planning.

Number	Price	
_____	\$170.00	Delegate Registration
_____	\$100.00	Spouse/Guest Registration
_____		Annual Banquet (Included in Registration)
_____		Annual Field Trip (Included in Registration)
_____	\$ 50.00	Spouse/Guest Trip to Frank Lloyd Wright's Fallingwater and Fort Necessity National Battlefield
_____ Total	\$ _____	Make checks payable to NASLR and mail to:

Linda M. Hiltabrand  
 IDNR – Office of Mines & Minerals  
 1825A Baker Lane  
 Peru, IL 61354  
 Phone: 815-481-2201  
 Email: [linda.hiltabrand@illinois.gov](mailto:linda.hiltabrand@illinois.gov)

**NASLR 2008 Technical and Social Event Summary** – The following events/activities are included in the delegate and spouse/guest registration fees:

<b>Day</b>	<b>Delegate</b>	<b>Spouse/Guest</b>
<b>Sunday, September 14, 2008</b>	Registration and Hospitality Suite (Sunday – Tuesday)	Presentations and Hospitality Suite (Sunday – Tuesday)
<b>Monday, September 15, 2008</b>	Presentations and Annual Banquet	Frank Lloyd Wright’s Fallingwater Tour/Fort Necessity Battlefield Tour, Lunch (Note 1)
<b>Tuesday, September 16, 2008</b>	Field trip to various mining, reclamation, and acid mine drainage treatment sites in the Laurel Highlands.  Evening/Country-Style BBQ Dinner.	Option to join annual field trip or on your own (e.g. Seven Springs golf, hiking swimming, etc.) (Note 2)
<b>Wednesday, September 17, 2008</b>	Presentations until mid-morning followed by NASLR business meeting.	Seven Springs offered amenities or on your own.

- **Note 1.** Trip total is \$50. Fallingwater entry fee/Fort Necessity entry fee included. It is recommended that you wear comfortable shoes for the walking tours. A lunch stop is scheduled between tours.
- **Note 2.** Spouses/Guests are welcome to attend the field trip. Cost is included in registration. We must have an accurate head count for safety and to have sufficient bus seats and meals.

**Visiting Seven Springs Mountain Resort and Western Pennsylvania** – Warm sunny days and crisp cool nights mark the beginning of fall in Western Pennsylvania. Fall is also one of the prettiest times in Western Pennsylvania, a respite between the hot days of summer and snowy cold winters. Warm days and cool nights prevail, and gorgeous fall color paints the rolling hillsides. Light sweaters are in, as well as your hiking boots! Average daily temperatures are lows in the mid-50’s and highs in the mid-70’s. Fall tends to be the sunniest of Western Pennsylvania’s seasons with less rain and fewer overcast days than during the rest of the year.

**Seven Springs Registration Deadline** – To be guaranteed the conference room rate, you must confirm your hotel accommodations with Seven Springs Resort by **August 15, 2008**. Make reservations directly with Seven Springs in Champion, PA at 814-352-7777 and request the NASLR Conference. See the conference website for additional information about Seven Springs Mountain Resort.

**Safety** – Please bring your hard hats and we encourage you to wear sturdy shoes or boots on the annual field trip. Rain gear is recommended for sudden showers.

**For further information** – Please refer to the NASLR 2008 conference website at [http://www.dep.state.pa.us/dep/deputate/minres/BMR/conference/2008\\_NASLR\\_conference.htm](http://www.dep.state.pa.us/dep/deputate/minres/BMR/conference/2008_NASLR_conference.htm) or contact Michael Smith (voice: 814-342-8200 – email [michaesmit@state.pa.us](mailto:michaesmit@state.pa.us)) or Tammy Cree (voice: 814-342-8105 – email [tcree@state.pa.us](mailto:tcree@state.pa.us)).