

# INTRODUCTION



Mike and Tomi Sue Fisher have been married for 57 years and have lived on 10<sup>th</sup> Street near Cimarron Road for over 47 of those years. Mike worked most of his life as a cattle buyer at the OKC Stockyards while serving in the Air Force National Guard. At night, he and his sweetheart Tomi Sue used their home to lead teen Bible studies which grew to over 120 kids. They also helped found an adult home Bible study that gave rise to the Covenant Community Church in Yukon – an independent Bible church numbering about a thousand folks. After serving for decades as a servant elder on the church board, Mike collaborated with a fellow member to write a series of yearly devotionals based on leaders during the Civil War and World War II. An educator at heart, Mike volunteered at Southwest Covenant Schools, teaching Bible and history to the high school classes, emphasizing the importance of patriotism. Hence their mascot, “The Patriots.” The school, founded by the church and now independent, has developed into a pre-K through 12<sup>th</sup> grade school with an enrollment of about 400 and ranks with the Oklahoma School of Science and Mathematics as having the highest per capita national merit scholars in the state of Oklahoma.

Not only has Tomi Sue been a wife, mother, grandmother, and great-grandmother, but she also provided the accounting for the church and school for decades. She led countless ladies’ Bible studies and ministered to numerous women in crisis, all while raising her children and keeping Mike in line.

And now in their retirement, as a reward, Mr. Harold Poage has threatened them with commercial oilfield toxic waste disposal sites to gaze upon and smell from their front porch. Wanting to erect them on land that the OKC Planning Commission has zoned as Agricultural Preservation, all to increase the treasure of a powerful man accustomed to getting his way. Mr. Poage seeks to create these toxic waste disposal blights to increase the vast personal fortune he has stored up, while the only wealth Mike and Tomi Sue have or ever hope to have is in their home, their land, and their family. All of which are now threatened.

“God opposes the proud but lifts up the humble.”

This relates to the application of YDF, Inc., owned by Harold Poage, before the Oklahoma Corporation Commission. Cause numbers PD 201600095 and PD 201600096.

This case is set for protest hearing on October 26, 27, 28, 2016.

**FACILITIES & INFRASTRUCTURE  
ADVERSELY AFFECTED BY MR. POAGE'S  
REZONING APPLICATION**

## **CIMARRON ROAD AND 10<sup>TH</sup> STREET**

1. Cimarron Road and 10<sup>th</sup> Street are unmarked country roads on the far side of Oklahoma City, near the western edge of the city limits. Because of their location, the City of Oklahoma City has treated the area as a low priority for improvement and maintenance.
2. The road surface is chipseal, typically used on rural roads carrying lower traffic volumes. Certainly increasing the residential density by adding approximately 500 individuals to this 120-acre area of land will only stress the road further.
3. The road surface has already been damaged by the numerous oilfield trucks traveling up and down to service all of the different oilfield operations, which are very numerous in this area. The shoulders of the road surface have been broken off by the heavy truck traffic and there are numerous potholes present. A few years ago, an entire section of the road adjoining Mr. Poage's property was so damaged that it had to be regraded and resurfaced over a distance of 100 yards.
4. Building 120 homes on this property would obviously increase truck traffic significantly because of the construction vehicles that would be required, i.e., cement trucks, dump trucks, lumber trucks. These would further damage the road surface in addition to the heavy oilfield traffic.
5. There are sections of Cimarron Road that are so damaged that they are effectively a one-lane road, and two vehicles cannot pass each other without going onto the grass.
6. Obviously, supersaturating this frail country road with an additional, at least 250 vehicles, would be unwise. (Average of two cars or trucks per home.)
7. Cimarron Road and N.W. 10<sup>th</sup> Street are neglected, two-lane asphalt corridors on the fringes of Oklahoma City, burdened by heavy vehicles and the occasional tractor with implements. They are already in poor condition and the bridges are in terrible shape as well. The crumbling of this critical infrastructure would only be exacerbated by this development. The presence of semi-trucks and other heavy equipment will also pose a

threat to public safety, as these are unmarked two-lane roads with numerous blind hills and no shoulders.

8. Possibly the most important use of these roads is as a Banner School bus route. The buses commence in the early and dark hours of the morning. Motorists trying to pass large oilfield trucks on this narrow roadway increases the potential for a catastrophic accident.

## **CLARENCE E. PAGE AIRPORT**

1. Cimarron Road is an emergency evacuation route for the airport and the neighborhood. Again, adding approximately 250 vehicles (i.e., two cars per dwelling) would only complicate this road as an evacuation route.
2. The fact that you have a commercial airport directly across the street from a residential neighborhood of 120 homes would not only create a noise nuisance to the residents, but would also increase the risk of a potential disaster. Recently, on 12/5/2022, a Beechcraft Bonanza went down at C.E. Page Municipal Airport and claimed the lives of three men. Obviously, if a plane went down in a residential neighborhood filled with families and children, the potential devastation and loss of life could be much greater.
3. If you build 120 homes in a neighborhood directly across the street from an airport, you might find the children, being curious as they are, invading the airport to investigate. I personally have seen unauthorized bicycle races on the landing strips and runways and have had to remove children and warn them of the dangers, since these are active runways.

With the recent proliferation of drones, there could easily be inadvertent contact with low flying aircraft, not only taking off and landing at the airport, but also many ultra-light, as well as experimental aircraft fly in and out of Page Airport.

4. There are approximately 100 aircraft based at C.E. Page Airport. In 2008, which are the last figures I could find, the airport had 25,000 aircraft operations per year.
5. There is an elevated helicopter landing pad used for practice on airport property that abuts the containment fence. This is directly across from Mr. Poage's property. It is already a well-known attraction for teenagers in the area that frequently scale the helicopter landing pad to "watch the stars." Again, children would naturally be attracted to this climbing tower as a challenge and an adventure, unfortunately not realizing the potential danger of a practice helicopter landing while they are on it.

# YUKON PROGRESS

• Home of Megan Evans Brakefield •

USPS 406-100

Yukon's Best Choice for Community News & Sports

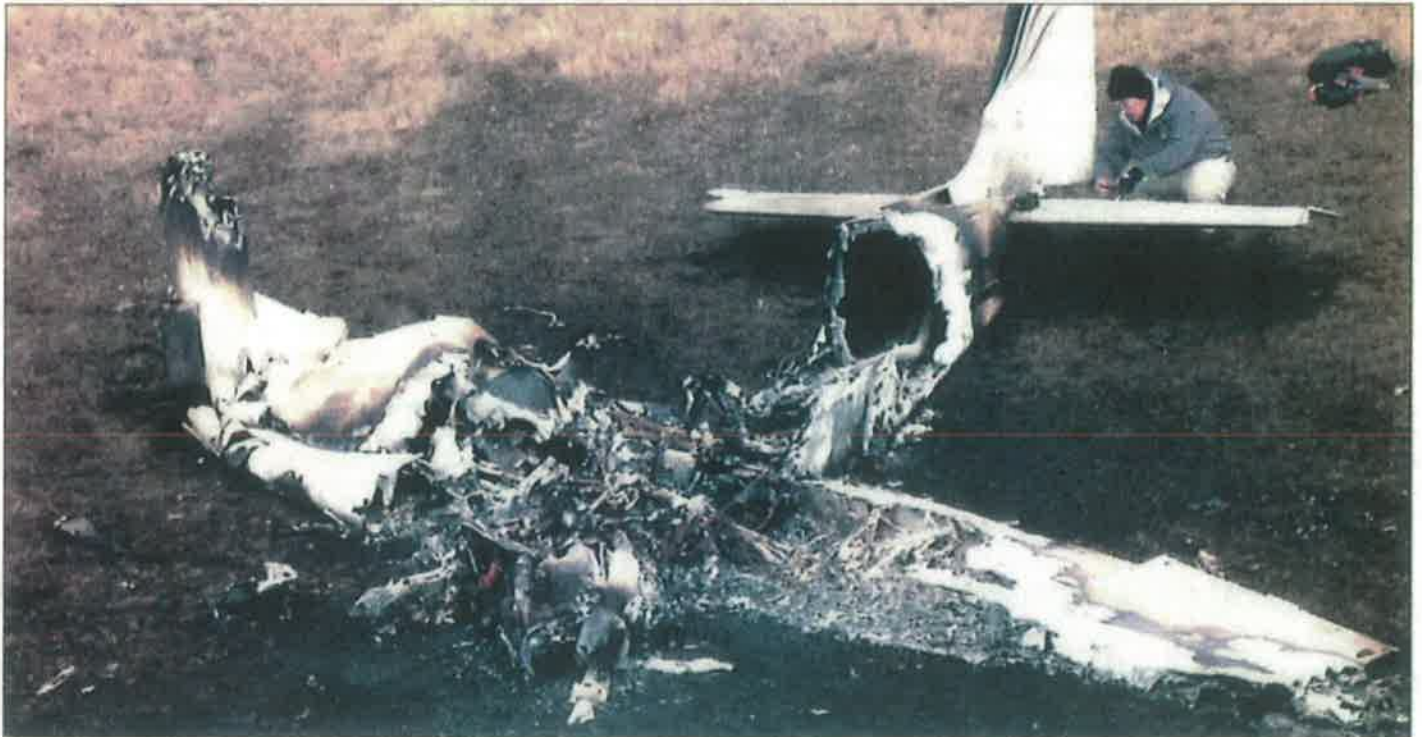
\$2.50

Volume: 115 | Issue: 035

Saturday, December 10, 2022

4 Sections | 32 Pages

## A scene of devastation



The 1971 Beechcraft Bonanza F33A carrying pilot Christopher Lamb and passengers David Lamb and Gage Prough came down and burst into flames as it was taking off from CE Page Airport, causing a grass fire. NTSB is still investigating; a preliminary report may be ready next week. (Photo by KOCO)

### NTSB: preliminary report on crash that killed three could be released next week

By Traci Chapman  
Managing Editor

National Transportation Safety Board continues to investigate the cause of a Dec. 5 plane crash at Clarence E. Page Municipal Airport that claimed the lives of three men, including a Yukon resident.

NTSB advised Friday a

preliminary report in the crash of the 1971 Beechcraft Bonanza F33A Aircraft had not yet been issued as of press time.

"It is possible it will be released some time next week," the agency advised in an email response to a query from the Yukon Progress.

Killed in the crash were 78-year-old David Lamb

of Yukon, a retired former employee of Mustang Public School District. Christopher Lamb, 53, of Perry was the owner and pilot of the aircraft; the third victim was Gage Prough, a 28-year-old from Stillwater.

It was unknown as of press time whether David Lamb and Christopher Lamb were related. What was known was

that Christopher Lamb clearly loved flying — his visible social media posts were almost exclusively about his plane, trips and flying in general. According to those posts, he received his Beechcraft back from the shop Nov. 25 after "some major upgrades."

Oklahoma State Department of Public Safety confirmed the victims' identities

Tuesday afternoon, after Oklahoma State Medical Examiners concluded their examination. All three men died of "massive injuries," the state ME's office said

NTSB and the Federal Aviation Administration have investigated the crash, which happened at about 9 p.m.

See Crash, Page 4A

## **BANNER SCHOOL**

1. Banner School is a semi-rural kindergarten through eighth grade facility that services approximately 260 pupils.
2. 38% of the students enrolled are classified as disadvantaged.
3. Only 52% have a proficiency in reading and 57% have a proficiency level in math. It is ranked #134 scholastically among Oklahoma elementary schools.
4. Adding 120 housing units to this school district with an average of four people (two children per household), would equal an additional 240 pupils. Adding that to the 260 would almost double the student population to 500. Increasing the student population by essentially doubling it, would require a significant increase in the funding that would be needed, not only in terms of facilities, but also in terms of teachers and staff.
5. Currently in Oklahoma, the average per pupil spending in 2019-2020 was \$10,475.00 per student. Even though property taxes would be collected on the homes of these students, it would be highly unlikely that the tax burden would provide enough revenue to pay for all of the necessary facilities and teachers.

## **WATER, SEWAGE, AND RUNOFF**

1. A new housing addition of this magnitude would require substantial supplies of water. Unfortunately, the local water table in this area has very high levels of boron, as well as a very high level of hardness with calcium and magnesium. Much of the water is not suitable for human consumption.
2. Even if water can be obtained from the City of Oklahoma City, or the Canadian County Water Board, there is still the issue of sewage. Essentially all of the neighbors, in the area, utilize septic tanks. Assuming that the land is suitable to percolation, there is the risk of leakage into the adjoining Shell Creek.
3. Shell Creek directly borders the east side of Mr. Poage's property, on a downhill grade. Any leakage from septic tanks, or runoff from fertilizers or insecticides could easily contaminate Shell Creek, which runs into the North Canadian River and is a supplier of Oklahoma City drinking water. If this occurred, it might take some time before the problem was recognized and rectified. I imagine it would also be very expensive as well as posing a health hazard.

## **EMERGENCY SERVICES**

1. Since the neighborhood in which we live is a semi-rural no-man's land on the far side of Oklahoma City, and in between Yukon and Mustang, we have very poor emergency service coverage. Having lived here for approximately 40 years, I have sometimes waited over an hour for the police to respond to a 9-1-1 call.
2. There is no consistent police presence. Occasionally, we will see a Canadian County Sheriff, approximately once a month.
3. The nearest Oklahoma City Fire Department is 15 miles away. At my residence on Cimarron Road, just south of Mr. Poage's property, we had to install our own fire hydrant so that the fire department would have water to utilize, in case we had a fire.
4. The nearest medical services are at least four miles away.

## PROPERTY VALUES

1. Folks who live in the neighborhood specifically moved here because the land was zoned AA Preservation. They moved from the cities and the suburbs to have some space with peace and quiet and a rural lifestyle. They knew when they invested their fortunes and their lives in building homes in this area they were secure in the knowledge that it was zoned AA Agricultural Preservation. They felt safe and secure in that knowledge.
2. To now change the rules and re-zone the land for one-acre lots instead of five-acre zoning, would be similar to you moving from a downtown apartment to a suburban neighborhood so that you could have a house and yard for your kids, and then unfortunately a developer appears and gets the land re-zoned and builds a 120-unit apartment house next to your home.
3. Mr. Poage knew the zoning restrictions when he bought the land originally. However, now he wants to change the rules to benefit himself. Everyone else who bought land in this neighborhood and built homes to raise their families, also knew the rules and zoning restrictions and they have lived by them for decades. Is it right or fair for one man to be able to change the rules of the neighborhood, simply to increase his profit margin at the expense of all of the West Yukon neighbors? He does not even reside in our neighborhood. There is little doubt that rezoning to one-acre density will adversely affect our property values. To allow one person to profit, at the expense of an entire neighborhood, is not the American way or the Oklahoma way. We have progressed beyond the age of the great robber barons, who used their wealth, power and connections to build their fortunes at the expense of those less powerful and influential.

Mr. Poage seeks to increase his vast personal fortune, while the only wealth most of our neighbors have, or hope to have, is in their home, their land, and their family. All of which are now threatened.

## ARTICLE VI. – ZONING BASE DISTRICTS

### §59-6100. – Agricultural and Residential Districts.

#### 61001.1. Purpose Statements.

- A. *AA Agricultural District.* The AA District creates and preserves areas intended primarily for agricultural purposes. It permits low intensity development along with certain essential commercial and institutional uses. It is not intended to provide a lower standard of development than in other districts. The types of uses, area and intensity of use regulations are designed to encourage and protect agricultural uses on a permanent basis, or until such time as urbanization takes place and an appropriate change in district classification is made.
- B. *RA2 Single-Family Two-Acre Rural Residential District.* The RA District provides single-family residential housing with rural amenities in the rural development areas of the City at densities from 0.35 to 0.45 dwelling units per acre. Special attention should be given to overall design and location of lots within this district to assure adequate provision of light, air and open space, and to protect the area from being subject to intensified zoning once the district has been established and developed.
- C. *RA Single-Family One-Acre Rural Residential District.* The RA District provides single-family residential housing with rural amenities in the rural development areas of the City at densities from 0.70 to 1.00 dwelling units per acre. Special attention should be given to overall design and location of lots within this district to assure adequate provision of light, air and open space, and to protect the area from being subject to intensified zoning once the district has been established and developed.
- D. *R-1 Single-Family Residential District.* The R-1 District is the most restrictive residential district. The principle use is single-family residential with provisions for related recreational, religious and educational facilities that are normally required to provide the basic elements of a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing adequate light, air and open space for dwellings and related facilities, and through consideration of the proper functional relationships of each element.
- E. *R-1ZL Single-Family Residential Zero Lot Line District.* The R-1ZL District is a restrictive residential district whose principal use is the single-family detached home with a zero side yard setback. Provisions are made for related recreational, religious and educational facilities that are normally required to provide the basic elements of a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing adequate light, air and open space for dwellings and related facilities, and through consideration of the proper functional relationships of each element. The R-1ZL District provides for a unique housing environment regarding such elements as side yard building setbacks, usable side yard areas, intensity of use and typical building orientation, which is unlike the R-1 District.
- F. *R-2 Medium-Low Density Residential District.* The R-2 District is a residential district with restrictions similar to the R-1 District. The purpose of the district is to create and preserve residential areas with a broad range of housing types and densities in proximity to essential support services. The regulations provide incentives for infill housing development consistent with existing character and density of an area. Provisions are also made for non-residential uses that support residential development.
- G. *R-3 Medium Density Residential District.* The R-3 District creates and preserves residential areas with a broad range of housing types and densities, which are close to essential support services. The regulations provide incentives for infill housing development consistent with the existing character and density of an area. Provisions are also made for non-residential uses that support residential development.

## **EARTHQUAKES**

1. In terms of infrastructure, all of us who live in the West Yukon neighborhood can testify to the cracks in our walls and foundations, secondary to the numerous earthquakes in Canadian County.
2. Canadian County has a higher level of natural seismic activity than any area of Oklahoma, especially near El Reno, where Mr. Poage's land is located. In fact, the Oklahoma Geological Survey's map of Canadian County shows a 16-mile fault and a 20-mile fault running through his property diagonally. The Oklahoma Geological Survey, as well as the Oklahoma Corporation Commission, have stated that researches agree that waste water injection into saltwater disposal wells poses the largest potential risk for earthquakes in Oklahoma. In this regard, there is an active saltwater disposal well within one mile of Mr. Poage's property.
3. All of Canadian County is included in the Oklahoma Corporation Commission's area of interest, established on 3/7/2016. These factors move the risk level of significant damage from a natural or saltwater-induced earthquake even higher. Oklahoma has become the most seismically-active state in the Union, more so than California.
4. Putting 120 families at risk in a very seismically active area of land that has two documented faults running underneath it with a saltwater disposal well a mile away is potentially not the safest place to construct your family's dwelling.

## **MR. POAGE'S PROBLEMATIC HISTORY**

CITY COUNCIL MEETING JULY 19, 2016—AGENDA ITEM IX.L.1  
AMENDMENTS TO DOCKETED RESOLUTION

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OKLAHOMA CITY AUTHORIZING AND DIRECTING THE MUNICIPAL COUNSELOR TO INITIATE AN ACTION IN THE DISTRICT COURT OF OKLAHOMA COUNTY TO ENJOIN POAGE LAND INVESTMENTS, L.L.C. FROM OPERATING AN ILLEGAL MINING OPERATION ON PROPERTY LOCATED IN THE “AA” AGRICULTURAL ZONING DISTRICT WITHOUT A SPECIAL PERMIT; BUT PROVIDING FURTHER INSTRUCTIONS TO THE MUNICIPAL COUNSELOR.**

**WHEREAS**, on August 7, 2014, Poage Land Investments, L.L.C. (“Poage”) applied for a Special Permit to allow mining operations on property located at N.W. 10<sup>th</sup> and Cimarron Road, which is zoned “AA” Agricultural District (“Subject Property”); and

**WHEREAS**, the application was designated as Planning Commission Case No. SP-473; and

**WHEREAS**, SP-473 was set for public hearing before the Planning Commission on September 11, 2014, but was continued numerous times until it was finally heard by the Planning Commission on February 12, 2015, at which time it was unanimously recommended for denial; and

**WHEREAS**, on February 26, 2015, the application was withdrawn; and

**WHEREAS**, since the withdrawal of its application for a Special Permit, Poage has continuously used the Subject Property to conduct illegal mining operations in violation of the City Ordinances; and

**WHEREAS**, Poage has been issued a citation for conducting mining operations in the “AA” Agricultural District without a Special Permit; and

**WHEREAS**, Poage continues to conduct illegal mining operations on the Subject Property; and

**WHEREAS**, the City Council deems it to be in the best interest of the citizens of Oklahoma City to authorize and direct the Municipal Counselor’s Office to initiate an action in the District Court of Oklahoma County, to enjoin Poage from conducting mining operations on the Subject Property without a Special Permit in violation of City Ordinances.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of The City of Oklahoma City that the Municipal Counselor is hereby authorized and directed to initiate an action in the District Court of Oklahoma County to enjoin Poage Land Investments, L.L.C. for conducting illegal mining operations on the Subject Property without a Special Permit in violation of City Ordinances;

provided, on July 15, 2016, an attorney acting as the liaison for legal counsel representing Poage Land Investments, L.L.C. regarding this matter, contacted the Municipal Counselor's Office and advised that: (1) Poage is ceasing mining operations on the Subject Property immediately; and (2) Poage will need approximately five working days to level the soil at the Subject Property that was disturbed, but no additional soil will be removed from the site; so, accordingly, based on Poage's July 15, 2015 statement of intent, the City Council hereby further instructs the Municipal Counselor not to file the authorized action in Oklahoma County District Court unless Poage resumes mining operations on the Subject Property without first obtaining a special permit for mining from the City Council, as required by Section 59-6100.2(B) of the Oklahoma City Planning and Zoning Code.

**APPROVED** by the City Council and **SIGNED** by the Mayor of The City of Oklahoma City,  
Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**THE CITY OF OKLAHOMA CITY**

**ATTEST:**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
MAYOR

**REVIEWED** for form and legality.

\_\_\_\_\_  
Assistant Municipal Counselor

---

**From:** Low, Warren  
**Sent:** Tuesday, August 09, 2016 7:06 PM  
**To:**

1. On August 7, 2014, the Mr. Poage applied for a Special Use Permit for the purposes of mining and processing of dirt.
2. The Application was continued several times and was finally heard before the Oklahoma City Planning Commission on February 12, 2015.
3. At the Planning Commission hearing on February 12, 2015, several Protestors appeared and protested the Application. After hearing all of the evidence, the Planning Commission recommended denial of the Application by a vote of 6-2.
4. On February 26, 2015, the Mr. Poage withdrew the Application.
5. Subsequently, Mr. Poage began mining dirt to transition into a "Sod Farm," which a "Sod Farm" is an allowed use in AA zoned property. However, if the excavation of dirt below the surface grade is required to develop a "Sod Farm", then a Special Permit would be required for the mining portion of the development.
6. Chapter 59, Section 59-8450.1 of the Zoning Code defines Mining and Processing: Minerals and Raw Material as "Places primarily devoted to surface or subsurface mining, excavation, or extraction of metallic and nonmetallic materials with essential on-site processing of such products, typical uses are a barrow pit, sand pit, quarry or mine."
7. On August 21, 2015, obtained a permit from the State of Oklahoma Department of Mines to engage in mining of dirt for 119.76 acres.
8. Title 45 O.S. § 723(3) defines mining as "the extraction of minerals from natural deposits by any method or process." Additionally, §723(6) of said statute defines "surface mining" as "those mining operations carried out on the surface, including strip mining, auger mining, quarrying, dredging, pumping, or the use of hydraulic methods."
9. Further, on June 20, 2016, Mr. Poage obtained a Storm Water Quality permit from The City of Oklahoma City. The application for said permit indicates the business being conducted on the Subject Property is dirt removal in order to transition into a "Sod Farm."
10. On or about May 2, 2016, and June 24, 2016, the was conducting mining operations on the Subject Property without a Special Permit.
11. Based upon the determination by the City's Code Enforcement personnel, two citations were issued to Mr. Poage. The Municipal Counselor's Office reviewed the citations, agreed that probable cause was shown, and filed Informations in the Oklahoma City Municipal Criminal Court of Record.
12. It is the belief of the the local residence as well as the City that Mr. Poage is engaging in the same activity (i.e. the mining of soil ) for what it sought a Special Permit for in 2014- 2015, but was recommended for denial by the Oklahoma City Planning Commission.
13. The City alleges that even if the activities conducted by Mr. Poage result in the development of a "Sod Farm," the means to obtain that end use as a "Sod Farm" require a Special Permit approved by the Oklahoma City Council because Mr. Poage is mining dirt within the meaning of the City's Zoning Code.
14. Mr. Poage's violation of the City's Zoning Code is an injury to the City and its citizens and a continuing zoning violation is an injury for which injunctive relief is available pursuant to 11 O.S. § 43-107.
  - a. Title 11 O.S. § 43-107 provides as follows:
    - i. "If any building, structure or land is in violation of any municipal ordinance or other regulation, the proper local authorities of the municipality, or any other person affected thereby, in addition to other remedies, may institute appropriate action or proceedings to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use: to restrain, correct or abate any violation; to prevent the unlawful occupancy of the building, structure or land; or to prevent any illegal act, business or use in or about the premises."

15. To allow Mr. Poage to continue to excavate dirt from the Subject Property will continue to injure the citizens of Oklahoma City who live near the Subject Property.
16. Pursuant to the provisions of 12 O.S. §1384.1, Mr. Poage and all persons acting in concert with him should be temporarily restrained from conducting the excavation of dirt until a Petition for Temporary Injunction, Permanent Injunction and Declaratory Judgment can be filed and a hearing held before the Court.
17. The Supreme Court of Oklahoma held in *City of Tulsa v. Crain*, 1978 OK 2, 573 P.2d 707, that the violation of a city zoning ordinance is an injury to the city and its citizens and a continuing ordinance violation is an injury for which injunctive relief is available.
18. The zoning enabling legislation given to municipalities is for the purpose of promoting the health, safety, morals, or the general welfare of the community. 11 O.S. § 43-101 a. Without a Temporary Restraining Order in place, Mr. Poage will continue to mine for dirt in violation of the City's Zoning Code creating dust, continuous truck traffic, noise and other issues to the detriment of the citizens living within the area of the Subject Property.
19. Mr. Poage's violation of the City's Zoning Code is an injury to the City and its citizens and a continuing zoning violation is an injury for which injunctive relief is available pursuant to 11 O.S. § 43-107.
20. Pursuant to 12 O.S. § 1651, the citizens of Oklahoma City are entitled to an Order declaring that the activities being conducted on the Subject Property constitute mining within the meaning of the Oklahoma City Zoning Code, and therefore, require a Special Use Permit approved by the Oklahoma City Council.
21. Mr. Poage has declared his intent to cease all mining operations immediately and to smooth the surface of the land over a five day period.
22. If as stated, it is truly Mr. Poage's intention to cease his illegal dirt mining operation, the City Counselor authorizing and instructing the Municipal Counselor's office to file for a temporary restraining order and injunction to ensure that Mr. Poage does not continue his mining operation will not harm Mr. Poage in anyway. Mr. Poage will not be restricted from using his land in a manner he desires and Mr. Poage does not even need to incur attorney fees, he can simply not contest the matter.
23. However, if the City Counsel does not authorize and instruct the Municipal Counselor's office to file for a temporary restraining order and injunction until Mr. Poage resumes his dirt mining operation the City and its citizens will suffer injury.
24. For this reason we request that the City Counsel instruct the Municipal Counselor's office to file for a temporary restraining order and injunction immediately.

Sent from my iPhone

## Email to print

LW Low, Warren

Reply all |

To: Hubbard, Dustin R.; dlow@dakotalow.com;

Thu 8/18/2016 10:00 AM

I am truly impressed and grateful! Thank you very much.

Sent from my iPhone

Sent from my iPhone

On Jun 30, 2016, at 4:38 PM, "[kenneth.jordan@okc.gov](mailto:kenneth.jordan@okc.gov)" <[kenneth.jordan@okc.gov](mailto:kenneth.jordan@okc.gov)> wrote:

*City Attorney*

Boyd,

Here's an update on the referenced matter.

I spoke with Dr. Warren Low on the telephone this morning (his email is [wlow@mcboh.com](mailto:wlow@mcboh.com), phone number 405-206-3807), and he gave me a great deal of information relating to this dirt excavation/extraction operation. He and I discussed the City's options to try to stop what appears to be an illegal dirt mining operation. Charles Locke, Code Enforcement Superintendent (who works for Bob Tener in the Development Services Department), has determined that, based on the actual operations now going on, which involve a below grade terraced pit and below grade excavation, this is in fact an illegal dirt mining operation. Based on this, a citation was issued by an inspector working for Charles. The Information for this citation is Municipal Court Case No. 167123757, and it was filed June 28, 2016.

We are also in the process of attempting to get a letter from Charles documenting his determination that the operation has been converted into a dirt mining operation. Yes, a "sod farm" would be legal; but the issue is whether or not digging a big dirt pit and removing this much dirt is merely part of the normal preparations for a sod farm or whether the operation has, in fact, been converted into an illegal mining operation. (It would be illegal because a mining operation, even just a dirt mining operation, needs a special use permit under the Zoning Code.)

Cindy Richard, Criminal Justice Division Head, told me that it will probably be at least 4 weeks (and maybe longer) before the citation would actually come up before a Municipal Judge. This is in the Environmental Court, and the scheduling of cases is now around 4-6 weeks out. I have advised Laura Yates that Dr. Low may be available as a witness, and that he has also recorded the ongoing operations. He has also tracked where the trucks are going with the dirt (a construction site nearby where he works).

We have already spoken to David Box, Mr. Poage's lawyer about the operation, and he again advised that this is only part of the preparations for establishing a "sod farm." I advised my attorneys (Laura McDevitt and Susan Randall) that we need to identify an expert on the City staff (or hire an outside expert) who can testify in both Municipal Court and Cleveland County District Court that the current dirt excavation/extraction operation is not typically part of "preparing to establish a sod farm." Laura and Susan are in the process of doing so, and we think there is someone, Mr. Raymond Melton in Engineering, who can testify about establishing a sod farm and how it's typically done. However, Raymond is gone this week so we cannot talk to him till next week. (So we don't have this point nailed down yet; however, it's my understanding that you are going to invite Raymond to next Tuesday's meeting.)

Susan Randall and Laura McDevitt, two attorneys who work for me, visited the site today and verified that there is a terraced pit onsite now, and that trucks drive down into it, below grade level, to excavate and process dirt (the onsite processing is loading the dirt into a truck to be hauled off to the construction site). They observed what was going on, and they also obtained both Mr. Poage's current (alleged) "sod farm" plans and the plans he filed with his abandoned application for a special use permit for a mining operation. They report that the two sets of plans are very similar.

Based on what we think we now know, and because of the length of time it takes to get cases heard in Municipal Court (due to the great number of cases filed), I will recommend to Councilman McAtee tomorrow that he ask us to place a Resolution on the July 19, 2016, City Council docket authorizing this Office to file a civil action in Canadian County District Court for an injunction seeking to stop the operation. Susan Randall and Laura McDevitt will handle this case in Canadian County. I will ask Susan and Laura to attempt to get a preliminary injunction as part of this process; in that way, we can try to halt it as quickly as possible. (This assumes we have a witness who can back up that what's going on doesn't really relate to what is typically done to establish a sod farm.)

That's the latest.

KJ



16-7123757

16-7123757

COMPLAINT / INFORMATION  
IN THE MUNICIPAL COURT OF THE CITY OF OKLAHOMA CITY,STATE OF OKLAHOMA  
THE CITY OF OKLAHOMA CITY VS. ☐ HFS ☐ TR ☐ CR ☐ JD ☒ EN ☐ JV ☐ JJ ☐ PK

LAST NAME		FIRST NAME		MIDDLE NAME	
POAGE LAND INVESTMENTS LLC					
ADDRESS		CITY		STATE	
2215 SOUTH COUNTRY LANE RD		OKC		OK	
ZIP	PHONE-HOME	WORK	EMPLOYER		
73128					
SOL/SSN/ID/OTHER		CLASS	ENCLTS	STATE	DL YR.
					DATE OF BIRTH
		<input type="checkbox"/>			
RACE	SEX	HT.	WT.	VEHICLE YR. MAKE, MODEL & STYLE	
				COLOR	
TAG YR.		ST.	TAG NO.	VIN	
INCIDENT NUMBER		ON OR ABOUT (DATE)		AT TIME	
		05/02/16		11:56	
AT OR NEAR LOCATION		COUNTY			
1100 NORTH CARMARON RD		CAN			
COM MTR VEH		HAZ MAT PLACARD		WITHIN THE CORPORATE LIMITS OF THE CITY OF OKLAHOMA CITY DID COMMIT THE FOLLOWING OFFENSE.	
YES NO		<input type="checkbox"/>		VIOL CODE	
				CD2	
BY THE ACT OF		DISTRICT USE VIOLATION		OFF. #2	
				COMA NO.	
IN VIOLATION OF MUNICIPAL CODE CH:		59 6100.2(C)		<input type="checkbox"/> BWC VIDEO	
JAILED:		<input type="checkbox"/> RELEASED IN FIELD		<input type="checkbox"/> RELEASED TO CC	
<input type="checkbox"/> CITY/COUNTY		<input type="checkbox"/> CHARGED OUT OF CUSTODY		<input type="checkbox"/> ACCIDENT INVOLVED	
		<input type="checkbox"/> HOSP-RELEASE			
I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true.					
SIGNATURE OF COMPLAINANT		<input type="checkbox"/> BWC VIDEO		COMPLAINANT	
ADDRESS OF COMPLAINANT		ADDRESS		PHONE	
420 WEST MAIN #1050		OKLAHOMA CITY		9288 2973049	
CITY:		STATE:		ZIP:	
OKLAHOMA CITY		OK		73102	
SUBSCRIBED AND SWORN BEFORE ME		NAME		DATE	
		T. B. S.		10-27-16	
NOTICE: Your release is based on your signed written promise to appear for arraignment on any traffic violation. If you fail to post bond, pay the fine or, in lieu thereof, appear for the arraignment, it will result in the suspension of your driver's license in Oklahoma or in your home state pursuant to the Nonresident Violator Compact. Further on all citations, if you fail to appear, post bond or pay the fine by the arraignment date, a warrant will be issued for your arrest. The amount of the fine will be raised to the maximum allowed by law and an additional charge of "Failure to Appear" will be filed against you. Without admitting guilt, I promise to appear in said court at said time and place.		ARRAIGNMENT COURT DATE		DATE	
		T.B.S.		TIME	
SIGNATURE		X			
OFFICER NOTES / WITNESS INFORMATION / COMPLAINANT/WARRANT CASE NO.					
(PLEASE PRINT) ADDRESS & ZIP, PHONE:					
CARE 216-27347					
ORIGINAL					

" "

**THE MUNICIPAL CRIMINAL COURT OF RECORD  
THE CITY OF OKLAHOMA CITY, STATE OF OKLAHOMA**

THE CITY OF OKLAHOMA CITY,

Plaintiff,

v.

POAGE LAND INVESTMENTS LLC  
2215 SOUTH COUNTYLINE ROAD  
OKLAHOMA CITY, OK 73128

Defendant.

Case Number: 167123757

**INFORMATION**

COMES NOW, Kenneth Jordan, duly appointed, qualified and acting Municipal Counselor of the City of Oklahoma City, State of Oklahoma and on his official oath informs the Municipal Criminal Court of Record of the City of Oklahoma that **POAGE LAND INVESTMENTS LLC** on or about **MAY 2, 2016** at or near **1100 NORTH CIMARRON ROAD**, which is located in the corporate limits of the City of Oklahoma City, State of Oklahoma that **POAGE LAND INVESTMENTS LLC** did then and there willfully, wrongfully and unlawfully commit the crime(s) of:

**COUNT ONE**

Violating the Oklahoma City Municipal Code by either doing an act that is prohibited or failing to perform an act that is required, in violation of Chapter 59, Section 6100.2(B). Defendant is a person who, within the corporate limits of The City of Oklahoma City, is responsible for a failure to comply with the following particular requirements of the Municipal Code:

**§ 59-6100. AGRICULTURAL AND RESIDENTIAL DISTRICTS.**

**6100.2 District Use Regulations:**

**(B) Table 6100.1 lists the uses allowed in the agricultural and residential districts.**

Defendant has violated Municipal Code Chapter 59, Section 6100.2(B), as aforesaid by **BY CONDUCTING MINING OPERATIONS ON PROPERTY LOCATED IN AN AGRICULTURAL ZONE WITHOUT A SPECIAL PERMIT**, within the corporate limits of The City of Oklahoma City, contrary to the provisions of the Municipal Code and against the peace and dignity of The City of Oklahoma City.

We have examined the facts of this case and based upon that review we recommend that a warrant be issued if defendant being notified does not appear for arraignment.

Kenneth Jordan, Municipal Counselor  
The City of Oklahoma City

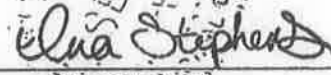


Assistant Municipal Counselor

Subscribed and sworn to before me this 28 day of JUN 2016

Lashawn Thompson, Court Clerk

By



Deputy Court Clerk

WITNESSES

CITY OF OKLAHOMA CITY DEPARTMENT OF DEVELOPMENT SERVICES:

\* INS. IRENE BURNHAM, COMM. # 9288, 420 W. Main, 10th Floor, OKC, OK 73102;  
HTTP://DEPARTMENTS/LEGAL/CRIMINAL JUSTICE/ENVIRONMENTAL/CASES/POAGE LAND INVESTMENTS LLC 1100 N  
CIMARRON RD 16-7123757/POAGE LAND INVESTMENTS LLC - BURNHAM 59-6100 2 B.DOCX

LASHAWN THOMPSON  
COURT CLERK

BY DEPUTY COURT CLERK

2016 JUN 28 AM 11: 08

FILED  
MUNICIPAL COURT  
OKLAHOMA CITY, OKLA.



16-7470596

16-7470596

COMPLAINT / INFORMATION  
IN THE MUNICIPAL COURT OF THE CITY OF OKLAHOMA CITY,

STATE OF OKLAHOMA		THE CITY OF OKLAHOMA CITY VS.		<input type="checkbox"/> HFS	<input type="checkbox"/> TR	<input type="checkbox"/> CR	<input type="checkbox"/> JD	<input checked="" type="checkbox"/> EN	<input type="checkbox"/> JV	<input type="checkbox"/> JJ	<input type="checkbox"/> PK	
LAST NAME		FIRST NAME		MIDDLE NAME								
POAGE		LAND		INVESTMENTS LLC								
ADDRESS		CITY		STATE								
2215 SOUTH COUNTY		LINERD		OKC OK								
ZIP		PHONE HOME		WORK		EMPLOYER						
75128												
SOLUS/OLD/OTHER		CLASS		EXHITS		STATE		DL YR.		DATE OF BIRTH		
RACE		SEX		HT.		WT.		VEHICLE YR., MAKE, MODEL & STYLE				COLOR
TAG YR.		ST.		TAG NO.		VIN						
INCIDENT NUMBER		ON OR ABOUT DATE		AT TIME								
		06/24/16		12:11								
AT OR NEAR LOCATION		COUNTY										
1100 N CIMAARRON RD		CAN										
COM MITR VEH		HAZ MAT		WITHIN THE CORPORATE LIMITS OF THE CITY OF OKLAHOMA		VIOL CODE						
YES		NO		PLACARD		CITY DID COMMIT THE FOLLOWING OFFENSE.		CDZ				
BY THE ACT OF		DISTRICT USE REGULATIONS		OFF. #2								
				COMM NO.								
IN VIOLATION OF MUNICIPAL CODE CH:		59		6100.2(B)		BWC VIDEO						
JAILOD:		RELEASED		RELEASED		CHARGED OUT OF CUSTODY		ACCIDENT INVOLVED				
<input type="checkbox"/> CITY/COUNTY		<input type="checkbox"/> IN FIELD		<input type="checkbox"/> TO CIC		<input checked="" type="checkbox"/> HOSP. RELEASE		<input type="checkbox"/>				
I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true.												
SIGNATURE OF COMPLAINT		BWC VIDEO		9288								
ADDRESS OF COMPLAINANT		PH		9288								
120 W Main St		1050		247.949								
CITY:		STATE:		ZIP:								
OKC		OK		75102								
SUBSCRIBE AND SIGN HERE		DATE		FILE								
NAME		7-14-16		622								
NOTICE: Your release is based on your signed written promise to appear for arraignment on any traffic violation; if you fail to post bond, pay the fine or, in lieu thereof, appear for the arraignment, it will result in the suspension of your driver's license in Oklahoma or in your home state pursuant to the Nonresident Violator Compact. Further on all citations, if you fail to appear, post bond or pay the fine by the arraignment date, a warrant will be issued for your arrest, the amount of the fine will be raised to the maximum allowed by law and an additional charge of "Failure to Appear" will be filed against you. Without admitting guilt, I promise to appear in said court at said time and place.												
ARRAIGNMENT COURT DATE												
DATE 7.14.16 TIME												
SIGNATURE X												
OFFICER NOTES / WITNESS INFORMATION / COMPANION/WARRANT CASE NO.												
(PLEASE PRINT) ADDRESS & ZIP, PHONE:												
Case# CB 42471												
ORIGINAL												

**THE MUNICIPAL CRIMINAL COURT OF RECORD  
THE CITY OF OKLAHOMA CITY, STATE OF OKLAHOMA**

THE CITY OF OKLAHOMA CITY,

Plaintiff,

v.

POAGE LAND INVESTMENTS LLC  
2215 SOUTH COUNTY LINE ROAD  
OKLAHOMA CITY, OK 73128

Defendant.

Case Number: 167470596

**INFORMATION**

COMES NOW, Kenneth Jordan, duly appointed, qualified and acting Municipal Counselor of the City of Oklahoma City, State of Oklahoma and on his official oath informs the Municipal Criminal Court of Record of the City of Oklahoma that **POAGE LAND INVESTMENTS LLC** on or about **JUNE 24, 2016** at or near **1100 NORTH CIMARRON ROAD**, which is located in the corporate limits of the City of Oklahoma City, State of Oklahoma that **POAGE LAND INVESTMENTS LLC** did then and there willfully, wrongfully and unlawfully commit the crime(s) of:

**COUNT ONE**

Violating the Oklahoma City Municipal Code by either doing an act that is prohibited or failing to perform an act that is required, in violation of Chapter 59, Section 6100.2(B). Defendant is a person who, within the corporate limits of The City of Oklahoma City, is responsible for a failure to comply with the following particular requirements of the Municipal Code:

**§ 59-6100. AGRICULTURAL AND RESIDENTIAL DISTRICTS.**

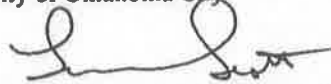
**6100.2 District Use Regulations:**

**(B) Table 6100.1 lists the uses allowed in the agricultural and residential districts.**

Defendant has violated Municipal Code Chapter 59, Section 6100.2(B), as aforesaid by **BY CONDUCTING MINING OPERATIONS ON PROPERTY LOCATED IN AN AGRICULTURAL ZONE WITHOUT A SPECIAL PERMIT**, within the corporate limits of The City of Oklahoma City, contrary to the provisions of the Municipal Code and against the peace and dignity of The City of Oklahoma City.

We have examined the facts of this case and based upon that review we recommend that a warrant be issued if defendant being notified does not appear for arraignment.

Kenneth Jordan, Municipal Counselor  
The City of Oklahoma City

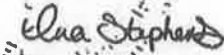


Assistant Municipal Counselor

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_

Lashawn Thompson, Court Clerk

By



Deputy Court Clerk JUL 18 2016

WITNESSES

CITY OF OKLAHOMA CITY DEPARTMENT OF DEVELOPMENT SERVICES:

\* INS. IRENE BURNHAM, COMM. # 9288, 420 W. Main, 10th Floor, OKC, OK 73102;  
HTTP://DEPARTMENTS/LEGAL/CRIMINAL\_JUSTICE/ENVIRONMENTAL/CASES/POAGE LAND INVESTMENTS LLC 1100 N  
CIMARRON RD 16-7470596 2VNG/POAGE LAND INVESTMENTS LLC - BURNHAM 59-6100 2 U.DOCX

LASHAWN THOMPSON  
COURT ADMINISTRATOR

BY DEPUTY COURT CLERK

2016 JUL 18 A & 14

FILED  
MUNICIPAL COURT  
OKLAHOMA CITY, OKLA.



STATE OF OKLAHOMA  
DEPARTMENT OF MINES - MINERALS DIVISION  
2915 N. Classen Blvd, Suite 213 Oklahoma City, OK 73106  
Office 405/427-3859



## MINING PERMIT COMPLIANCE REPORT

Date of Inspection: 7-1-16  
Company or Individual: Poage Land Investments, LLC  
Address: P.O. Box 850680 Telephone: 405-324-2071  
City: Yukon State: OK Zip: 73085  
Location of Operation: Shell Creek Sod Farm, Permit #L.E.2529  
Section: 26 Township: 12N Range: 6W County: Canadian

### ENFORCEMENT ACTION

#### *Reports Attached*

Warning Letter: \_\_\_\_\_ Notice of Violation: XXX  
Cessation Order: XXX Abatement Date: \_\_\_\_\_

*If a Cessation Order has been issued at this location, mining shall immediately cease. This order is issued as required by Non-Coal Rule 460:10-37-2 (a) (b). You are herein notified you have a right to a Hearing as provided by Non-Coal Rule 460:10-37-5.*

*State Statute Title 45, Section 724 (A) Mining without a permit. It shall be unlawful for any operator to engage in any mining operations in this state without first obtaining a permit from the Oklahoma Department of Mines for each separate mining operation.*

*If the Department determines that an entity or individual has mined without a permit in violation of Section 724 of this title, the Department shall assess a fine of up to Ten Thousand dollars (\$10,000.00) against the entity, individuals, or agents of said entity. Any agent is jointly and severely liable with its principal for such violations and any resulting fines.*

Copy Delivered to: \_\_\_\_\_ Inspector's Signature: 

STATE OF OKLAHOMA  
DEPARTMENT OF MINES  
2915 N. CLASSEN BLVD., SUITE 213  
OKLAHOMA CITY, OK 73106  
405/427-3859

PERMITTEE/OPERATOR: Poage Land Investments, LLC PERMIT NO.: L.E.-2529  
ADDRESS: P.O. Box 850680 TELEPHONE NO.: 405-324-2071  
CITY: Yukon STATE: OK ZIP: 73085  
SECTION: 26 TOWNSHIP: 12N RANGE: 6W COUNTY: Canadian

## CESSATION ORDER

It is hereby ordered that **Cessation of all Non-Coal Mining** at this location or relevant portion or practice thereof shall immediately occur. This order is issued as required by Non-Coal Rule 460:10-37-2 (a), (b). You are herein notified you have a right to a Hearing as provided by Non-Coal Rule 460: 10-37-5.

The following reference(s) marked are conditions or violations that must be addressed or abated prior to activity commencing.

### PERMITTING STANDARDS

- \_\_\_\_\_ **TITLE 45 O.S. 724 (A) MINING WITHOUT A PERMIT.** It shall be unlawful for any operator to engage in any mining operations in this State without first obtaining a permit or Limited Use Permit from the Oklahoma Department of Mines for each separate mining operation.
- \_\_\_\_\_ **Non-Coal Rule, Rule 460:10-17-13(3) MINING OUTSIDE PERMIT OR BONDED AREA.** "The permittee shall conduct non-coal surface mining and reclamation operations only on those lands specifically designated on the maps submitted in the application and approved for the term of the permit and which are subject to the performance bond or other equivalent guarantee in effect."
- \_\_\_\_\_ **TITLE 45 O.S. 724(F) FAILURE TO PAY PERMIT FEE.** Each application for a permit under subsections B and C of Section 724 shall pay a fee of \$175.00 for each permit year, due on the anniversary date of each permit.

ANNIVERSARY DATE: \_\_\_\_\_.

- \_\_\_\_\_ **TITLE 45 O.S. 724(G.2) RENEWAL OF EXISTING PERMIT.** All applications for renewal of existing permits shall be filed prior to the expiration of the existing permit in accordance with the rules promulgated by the Department.

PERMIT EXPIRED: \_\_\_\_\_.

### HEALTH AND SAFETY STANDARDS

- \_\_\_\_\_ **NON-COAL RULES 460: 10-37-2(b)** Operator has failed to abate previously issued violation(s) within the abatement period fixed or subsequently extended by the Director or authorized representative.
- \_\_\_\_\_ **NON-COAL RULES 460: 10-17-14** Permittee shall take all possible steps to minimize the hazardous impact to the environment or public health and safety resulting from non-compliance with any term or condition of the permit.

Conditions exist on site as follows: See narrative attached.

SIGNED: \_\_\_\_\_

DATE: July 1, 2016

COPY DELIVERED TO: \_\_\_\_\_

Page 3 of 3

WHITE - Office

YELLOW - Inspector

PINK - Operator

NC CO 13

STATE OF OKLAHOMA  
DEPARTMENT OF MINES

2915 N. Classen Blvd., Suite 213

405/427-3859

Oklahoma City, Oklahoma 73106

MODIFICATION OF NOTICE OF VIOLATION OR CESSATION ORDER

Permittee: Poage Land Investments, LLC State Permit Number: L.E.-2529  
Mailing Address: P.O. Box 850680 Yukon, OK 73085 Mine Name: \_\_\_\_\_  
Telephone#: 405-324-2071 County: Canadian  
Operator's Name: \_\_\_\_\_ Inspection Date: 7-1-16  
Operator's Address: \_\_\_\_\_ Time of Inspection: From: \_\_\_\_\_ To: \_\_\_\_\_  
(If different than Permittee) \_\_\_\_\_  
Surface/Underground/Other (Specify): \_\_\_\_\_  
Special Distribution: Douglas Schooley, Richard Shore, Mark Secrest

ACTIONS TAKEN

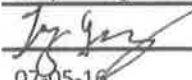
AUTHORITY: Under the authority of the Mining Lands Reclamation Act, Title 45 Oklahoma Statutes, Sections 721 through 738. and OAC 460:10-37, the following action is taken:

Notice of Violation : \_\_\_\_\_ Date Issued: \_\_\_\_\_  
Extended: \_\_\_\_\_ Extended Date: \_\_\_\_\_  
Abated: \_\_\_\_\_ Abated Date: \_\_\_\_\_  
Vacated: \_\_\_\_\_ Vacated Date: \_\_\_\_\_

For the following reason: \_\_\_\_\_

Cessation Order: ☒ \_\_\_\_\_ Date Issued: 7-1-16  
Modified ☒ \_\_\_\_\_ Vacated Date: 07-05-16

For the following reason: Current Cessation Order references entire bond increment #1. Modification of cessation order only references approximately 2 acres in the southwest corner of bond increment #1. Cessation order abated plan included.

Name of Authorized Representative: Troy Young, ODM Mine Inspector  
Signature of Authorized Representative:   
Effective Date: 07-05-16

ExtTermVacForm1212

Oklahoma Department of Mines  
2915 N. Classen Blvd., Suite 213  
Oklahoma City, OK 73106  
(405) 427-3859  
Fax: (405) 424-4932

Page 2 of 3

## INSPECTION REPORT NARRATIVE

Inspection Date: July 1, 2016

Report Date: July 5, 2016

Company: Poage Land Investments, LLC

Permit Number: L.E.-2529

### Modification of Cessation Order written 7-1-16

**OAC: 460: 10-9-4. Compliance with permits.** *All persons shall conduct non-coal surface mining and reclamation operations under permits issued pursuant to this Chapter and shall comply with the terms and conditions of the permit and the requirements of 45 O.S. Section 721, et seq., and this Chapter, along with all other applicable State, Federal, or local permitting and licensing requirements.*

Currently, the permittee, Poage Land Investments, LLC has on file with the Department of Mines (ODM) a reclamation plan that was submitted and approved with the permit. The reclamation plan clearly states the end land use of the permit is to be a sod farm and to be developed as such. Upon inspection this date, it is clear the permittee is not following the reclamation and mine plan, as excavation in the southwest corner of the permit indicates boxcuts of approximately eight (8) feet. The depth of the cut appears greater than indicated on the post mine (reclamation) map. This does not constitute a level and grade operation as directed by the reclamation plan and permit.

Therefore, two violations and a cessation order have been written and issued that prohibits any further mining on the permit and bonded area where excavation is currently taking place. This disturbed acreage is estimated to be approximately 2 acres and is located in the southwest corner of bond increment #1

Mining can occur on any other part of bonded increment #1 that is not currently disturbed so long as it adheres to grade requirements that reflect post mine contours in approved reclamation maps that are currently on file with ODM. Elevation stakes or some other means of grade compliance must be implemented to ensure post mine grades remains in compliance within submitted and approved maps. Once these measures are instituted, an inspection will be conducted to ascertain compliance and abate the cessation order issued.

The operator has indicated that a sediment pond will be constructed to assist with dust control measures. The reclamation plan submitted indicates a pond will not be constructed if an impoundment is needed. A revision to the reclamation plan will need to be submitted.

In addition, dust control measures must be implemented, such as but not restricted to water trucks, and the rocking of hauls roads to control nuisance dust on the permit.

Violation and cessation order written this date. Photographs taken.

# INSPECTION REPORT

OKLAHOMA DEPARTMENT OF MINES  
2916 N. CLASSEN BLVD., SUITE 213  
OKLAHOMA CITY, OKLA. 73108  
(405) 427-3859

PERMITTEE Pogge Land Inv. PERMIT NO. L.E.-2529  
ADDRESS: P.O. Box 850680, Yukon OK 73085 TELEPHONE NO. 405-324-2071  
SECTION: 26 TOWNSHIP: 12N RANGE: 6W COUNTY: Canadian  
MINES STATUS: ACTIVE: ☒ INACTIVE: ☐ RECLAMATION: ☐ ABANDONED/BOND FORFEITURE: ☐  
MINERAL MINED: Select Material ACREAGE PERMITTED: 119.76 BONDED: 28.60

## PERFORMANCE STANDARDS

1 = IN COMPLIANCE 2 = NOT IN COMPLIANCE 3 = NOT APPLICABLE 4 = NOT REVIEWED THIS INSPECTION

A.	<u>1</u>	Perimeter Markers.....	TOTAL VIOLATIONS ISSUED	_____
B.	<u>1</u>	Mining within Permit Boundaries.....	TOTAL VIOLATIONS ISSUED	_____
C.	<u>1</u>	Distance Prohibitions (Lateral Support).....	TOTAL VIOLATIONS ISSUED	_____
D.	<u>1</u>	Following permit Conditions.....	TOTAL VIOLATIONS ISSUED	_____
E.	<u>1</u>	Required Bond Increment.....	TOTAL VIOLATIONS ISSUED	_____
F.	<u>1</u>	Reclamation Standards.....	TOTAL VIOLATIONS ISSUED	_____
G.	<u>3</u>	Section 908: Employing Foreman # _____		
H.	<u>3</u>	Section 909: Foreman Duties.....	TOTAL VIOLATIONS ISSUED	_____
I.	<u>1</u>	Section 910: Proper Ground Control.....	TOTAL VIOLATIONS ISSUED	_____
J.	<u>3</u>	Section 911: Explosives.....	TOTAL VIOLATIONS ISSUED	_____
K.	<u>3</u>	Section 912: Drilling for Blasting.....	TOTAL VIOLATIONS ISSUED	_____
L.	<u>2</u>	Section 913: Loading, Hauling or Dumping.....	TOTAL VIOLATIONS ISSUED	<u>2</u>
M.	<u>1</u>	Section 914: Travelways.....	TOTAL VIOLATIONS ISSUED	_____
N.	<u>3</u>	Section 915: Electricity.....	TOTAL VIOLATIONS ISSUED	_____
O.	<u>1</u>	Section 916: Equipment.....	TOTAL VIOLATIONS ISSUED	_____
P.	<u>1</u>	Section 917: Personal Protection.....	TOTAL VIOLATIONS ISSUED	_____
Q.	<u>3</u>	Section 918: Augering.....	TOTAL VIOLATIONS ISSUED	_____
R.	<u>1</u>	Section 919: General Rules & Procedures.....	TOTAL VIOLATIONS ISSUED	_____
S.	<u>3</u>	Following Blasting Procedures.....	TOTAL VIOLATIONS ISSUED	_____

Blaster #: \_\_\_\_\_

VIOLATIONS ISSUED THIS MONTH 2 TOTAL FOR YEAR 2 VIOLATIONS UNABATED THIS DATE 0

LAST INSPECTION DATE 6-29-16 SIGNED: Jay Jay (2)

COPY DELIVERED TO: on-site Date 7-1-16

PAGE 1 OF 2

Oklahoma Department of Mines  
2915 N. Classen Blvd., Suite 213  
Oklahoma City, OK 73106  
405/427-3839  
FAX: 405/424-4932

### INSPECTION REPORT NARRATIVE

Inspection Date: 7-1-16

Report Date: 7-1-16

Company: Peage Land Inv.

Permit Number: L.E.- 2529

Title 45 - Chapter 11 - Section 913(17) - Dust control measures shall be taken where dust significantly reduces visibility of equipment operators. Haulage roads shall be wet down as necessary unless dust is controlled adequately by other methods;

1) Notice of violation is being issued for nuisance dust created by truck traffic causing restricted visibility.

Title 45 - Chapter 11 - Section 913(20) - Beams, bumper blocks, safety hooks or similar means shall be provided to prevent overtravel and overtorquing at dumping locations;

1) Notice of violation is being issued for not having beams up along haul roads.

Both above violations were abated before inspection was completed.



July 1, 2016

To Whom It May Concern,

McBride Orthopedic Hospital has contracted with Manhattan Construction to build a new 125,000 square foot medical office building located on our current hospital campus at Britton Road and Broadway Extension.

Pursuant to discussion with Manhattan, they have contracted with C-Watts to provide almost 9,000 yards "Select" grade dirt for our new building pad. I was also informed that C-Watts contracted to purchase this dirt from a Poage Dirt company. This dirt has been delivered to our location at 9600 Broadway Extension from June 24th – July 1<sup>st</sup>, 2016.

Manhattan has informed me that each dirt truck holds about **18 cubic yards** at a time and that the cost of only the select grade dirt is approximately \$5.00 per cubic yard.

If you have any additional questions, please feel free to give me a call.

A handwritten signature in dark ink, appearing to read "M Galliat".

Mark Galliat  
CEO

**Galliar, Mark**

---

**From:** Lucy Lambert <LLambert@manhattanconstruction.com>  
**Sent:** Tuesday, July 12, 2016 2:14 PM  
**To:** Galliar, Mark; Penrod, Darrell  
**Cc:** Mark O'Rear; Clay Cockrill; Richard Hocanson; Forrest S. Moisan  
**Subject:** McBride - C. Watts Import Dates

Mark – As requested, C. Watts (MCC subcontractor) has imported soil to the McBride project for several months. More recently, since the beginning of May, C. Watts has imported soil as follows:

5/9, 5/10, 5/13, 5/14 – Common fill for Phase 3 imported from a pit other than Shell Creek Sod Farm.

6/24, 6/25, 6/27, 6/28, 6/29, 6/30, 7/1 – Select fill hauled in from Shell Creek Sod Farm

7/5, 7/6, 7/7 – Common fill hauled in from a location other than Shell Creek Sod Farm.

Please let us know if you have further questions.

Thank you.



**Lucy Lambert Novotny**  
Project Manager

Manhattan Construction Company  
405-250-6770 direct  
llambert@manhattanconstruction.com  
[www.manhattanconstruction.com](http://www.manhattanconstruction.com)  
Follow Us: [LinkedIn](#) | [Facebook](#) | [Google+](#) | [Twitter](#)

## **OTHER ISSUES WITH MR. POAGE'S USE OF THE PROPERTY**

1. This past year, a local highway patrolman stated that Mr. Poage was storing frac tanks on his property and was spreading sludge from the frac tanks onto the soil. Whether this has contaminated the soil with petroleum products on which houses are to be built and families raised, brings up an issue, i.e., is the land environmentally safe for human habitation?
2. This past summer, when Mr. Poage was harvesting the grass that was growing on the property, grass fires were started on numerous occasions within a one-week period of time, which required the Oklahoma City Fire Department to respond and instruct Mr. Poage to stop cutting the grass and causing fires.
3. If Mr. Poage is granted rezoning for 120 houses on this property, how does that affect the mineral owner's rights to obtain access to the documented oil reserves that are on that property? Have the mineral owners been notified of this potential zoning change to the land?
4. One of the larger concerns is due to Mr. Poage's prior deception with stating that he was creating a sod farm, when in fact he was found to be mining the dirt. His history is untrustworthy in this area and the question would be, is this just another subterfuge to resume dirt mining, as was his sod farm illusion? Mr. Poage has created a credibility deficiency by his past actions in our community.

## PRESS RELEASE

(2016)

Neighbors in West Yukon are concerned after an oilfield company owned by Harold L. Poage, Jr. has announced that it has applied to the Oklahoma Corporation Commission for a permit to create two salt water disposal wells near their homes. The neighbors were notified that YDF, Inc. (Yukon Drilling Fluids) owned by Mr. Poage, who lives in the Yukon-Mustang area, had filed to re-open two plugged and abandoned wells on property he recently purchased near 1100 N. Cimarron Road, between NW 10<sup>th</sup> and NW 23<sup>rd</sup> Street, directly across from C.E. Page Airport.

Poage's filings raised suspicions as they are the latest proposed use for the 120-acre plot of land, having earlier told residents in the area that it would be used as a sod farm. Instead, he conducted an illegal, unpermitted dirt mining operation, stripping acres of once fertile topsoil and selling it as fill dirt for local construction projects. The City of Oklahoma City has repeatedly cited Poage Land Investments, LLC and filed criminal charges in municipal court due to its code violations.

On July 19, 2016 the Oklahoma City Council proposed a resolution to direct the city attorney, Kenneth Jordan, to file an injunction in district court to enjoin Poage Land Investments, LLC from operating an illegal mining operation on property located in the "AA" Agricultural Zoning District without a special permit. Under this pressure, Poage agreed to immediately cease strip mining and the Oklahoma City Council passed the resolution with an amendment not to seek the injunction unless Poage resumed mining.

With Poage's track record of violations, neighbors are fearful that his company, YDF Inc., will also operate with disregard for regulations. Another disposal injection well operated by YDF polluted the Oklahoma River in 2013 with 17,000 gallons of oil and salt water. The new proposed saltwater injection wells are very close to Shell Creek, a tributary to the North Canadian River, and could potentially harm not only the water wells of families in the area, but also the Oklahoma City Water Supply. Poage's willingness to violate rules and regulations raises concerns that he cannot be trusted to follow proper procedures, putting the drinking water of dozens of households at risk. All of this at a time when the July 20, 2016 edition of the Yukon Review featured an article on the Central Oklahoma Water Resource Authority (COWRA) board meeting in Yukon. This public trust which includes Yukon and Mustang is searching for an independent water supply. "Water, and its availability, is one of the most challenging resources to provide for a growing population," said District 2 County Commissioner David Anderson. Do we really want to contaminate our valuable aquifers with toxic waste?

Other concerns include road safety due to 150-200 tanker trucks per day, since Poage is seeking permission to inject 20,000 barrels of contaminated fluid daily. Clouds of dust creating health hazards, lightning strikes causing fires, constant pump noise, bright lights, and of course injection-related earthquakes could all destroy the peace and serenity that drew the residents to invest their fortunes and families into this land.

The July 3, 2016 *Sunday Oklahoman* Business Section featured a front page article on earthquakes. "The Oklahoma Corporation Commission has issued more than a dozen directives asking disposal well operators to either cut volumes, plug back well depths, or shut in altogether. The agency's directives came in response to the state's sharp increase in earthquakes. In 2012, there were 17 magnitude 3.0 earthquakes in the first five months of the year. In the first five months of this year, there were 354." There were 907 earthquakes over a magnitude of 3.0 in Oklahoma last year alone.

Neighbors are reasonably terrified that the mere presence of these saltwater disposal wells will adversely affect insurance rates and property values. Lastly, there is the fast food restaurant phenomenon. When one is built on the corner of an intersection, the other corners quickly follow suit and are occupied. If Mr. Poage is successful with the Oklahoma Corporation Commission, we can watch in horror as Yukon becomes the fastest growing city in Oklahoma for disposal wells and earthquakes.

I was trying to think of something clever to write in hopes this information might have a significant impact. However, I was reminded that, "The king's heart is like channels of water in the hand of the Lord. He turns it wherever he wishes." Therefore, I will leave making an impression up to Him.

I would like to thank each and every member of the Oklahoma Planning Commission for their time, patience, and interest in allowing the West Yukon neighborhood to be heard. Obviously, we are united in our opposition to Mr. Poage's rezoning application of his land at 10<sup>th</sup> and Cimarron. The residents of the West Yukon neighborhood are God-fearing, church-going, law-abiding, tax-paying and family-raising patriotic Oklahomans who desperately need your help.

As Americans, we are taught that government and all authorities exist to protect the poor and humble against the rich and powerful. We thank you and honor you for your faithful service.

One last thought concerning the growth of the Yukon area. Certainly, most statistics would indicate Yukon is one of the fastest-growing communities in our state. Growth requires home for new families. However, in driving home after church today, I went past the new Frisco Road interchange and noted all of the new home developments that are available for building in areas that are already zoned for suburban density. Driving past the Westport 66 Addition, you come to the Frisco Ridge area and then the Fountains at Frisco Ridge, and all of the land surrounding that. There is also a plethora of new residential neighborhood developments to the east and south of Yukon that are not in an AA Agricultural Preservation Zone. If Mr. Poage were content with building homes on five-acre lots, that would give him 24 homes to build, which is a significant number and would provide for growth and development of the area, and the West Yukon neighbors would sincerely welcome Mr. Poage and his development to our neighborhood.