BEFORE THE OKLAHOMA DEPARTMENT OF MINES
STATE OF OKLAHOMA

IN RE:	The Matter of the Application of: **ARBUCKLE AGGREGATES, LLC,** for a permit to engage in surface mining and reclamation operations in an area of 575 acres, more or less, located in Sections 23 and 24, Township 1 South, Range 4 East, Johnston County, State of Oklahoma	)	Case No. PAN 11-03-FH Case No. PAN10-05-IC Case No. PAN10-05-IC2 Permit #L.E.-2361 (Mill Creek Quarry)

ORDER DISMISSING FORMAL HEARING WITHOUT PREJUDICE AND STRIKING PRETRIAL CONFERENCE AND PENDING MOTIONS

This matter comes before the undersigned on the Motion To Dismiss Formal Hearing filed by the Oklahoma Department of Mines ("ODM") on November 30, 2012. On December 6, 2012 the United States Fish and Wildlife Service and the National Park Service joined in the Motion. On December 12, 2012, the Applicant, Arbuckle Aggregates, LLC, also joined in the Motion. No parties have filed objections to the Motion.

After reviewing the Motion and being advised in the premises it is found that the formal hearing should be dismissed without prejudice for the reason that it is premature. ODM's decision on Applicant's permit is no longer final, which renders a formal hearing premature. The Motion To Dismiss is sustained without prejudice.

All pending motions as well as the pretrial conference scheduled at 1:30 p.m. on December 14, 2012 are hereby stricken as moot.

IT IS SO ORDERED.

Dated: December 13, 2012.

R. Steven Haught
Hearing Examiner