

On (2) Is the increased truck traffic on County Road 23-123 and South Tyler a public nuisance or a health endangerment?

- The lawful definition of nuisance is: an act, object or practice that interferes with another's rights or interests by being offensive, annoying, dangerous, obstructive, or unhealthful.

nuisance. (2007). In *Encyclopædia Britannica*. Retrieved May 29, 2007, from Britannica Concise Encyclopedia: <http://concise.britannica.com/ebc/article-9373747/nuisance>

Examples of public nuisances would include such activities as obstructing a public road, polluting air and water, operating a house of prostitution, or keeping explosives. These activities could be construed as public nuisances and also constitute criminal violations. In contrast, a private nuisance is any activity or condition (e.g., excessive noise, disagreeable odor) that interferes with the use and enjoyment of one's property and that may be a cause of action in civil litigation.

The proposed small mine does not constitute a public nuisance as it does not interfere with the common right of the general public or an indefinite number of persons. The proposed small mine does not constitute a private nuisance as it does not interfere with any person's interest in the use and enjoyment of his own land.

The increased traffic should not be declared a nuisance whereas our business is cooperating with municipality by using suggested routes and the things complained of are "unavoidable incidents to the operation of a legitimate and beneficial enterprise". [As no comparable case was found in Wyoming, other States' case law was researched. This particular ruling is from Wisconsin, *Hartung v. Milwaukee County*, 2 Wis.2d 269, 281, 86 N.W.2d 475, 483 (1957).] Municipalities can establish heavy traffic routes, but may not prohibit heavy traffic from using a street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway, pursuant to sec. 349.17(1), Stats. 2/25/02.

Whereas the traffic on CR 23-123 and South Tyler exists prior to implementing additional activities, the additional activities cannot be deemed a nuisance. The 20 mile per hour limitation greatly reduces the chance of property damage or injury.

In addition to these facts, Sublette County is currently negotiating with the Bureau of Land Management to create alternate truck route that will access the Pinedale Anticline and the Mesa via the Industrial Site road to the west of Pinedale. This route would essentially negate the traffic concerns on CR 23-123 and South Tyler by providing an adequate route to bypass the residential area altogether. A letter regarding this matter has been included for your review.