

April 3, 2009

Administrator
Office of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Re: Objection to Evans Construction Application
for Small Mining Permit

Dear Administrator of Office of Land Quality Division,

This letter is to advise you of my objection to the Small Mining Permit, being applied for by Evans Construction for the mining of sand & gravel at the existing River Springs Gravel Pit located in Section 23, Township 41 North, Range 117 West, Teton County, Wyoming which is approximately ¼ mile north of the junction of Highways 22 and 390.

Since 1988, I have owned the property directly north of the existing River Springs Gravel Pit operated by Evans Construction. Twenty-one years ago, this land where the present River Springs Gravel operation is located was zoned residential and was not subject to a Special Use Permit.

In 1996 Teton County granted a Special Use Permit to River Springs for ten years and in 2007, Teton County renewed the Special Use Permit until December 1, 2011.

The subject property is allowed by the county to have a gravel processing operation until 2011. After 15 years of gravel operations on property that was zoned residential, allowing a Small Mining Permit with NO term limit is objectionable.

I object to allowing small mining in an area that is primarily residential.

Sincerely yours,

Julie T. Obering
Kindred LLC
c/o One DTC
5251 DTC Parkway, Suite 425
Greenwood Village, CO 80111

cc. Planning & Development, Teton County
P.O. Box 200 South Willow Street, Jackson, WY 83001

Subject: Evans Construction Small Mining Permit--OBJECTION

Date: Saturday, March 14, 2009 7:18 PM

From: Butch and Linda Williams <wyowilliams@wyoming.com>

To: Teton County Commissioners <commissioners@tetonwyo.org>

Cc: "Julie T. Obering" <jtobering@wyoming.com>

Conversation: Evans Construction Small Mining Permit--OBJECTION

Dear Commissioners:

This is to notify you of our OBJECTION to a small mining permit being applied for by Evan Construction to operate at the existing River Springs Gravel Pit at the junction of Hwys 22 and 390.

The fact that the proposed mining operation has NO END DATE in sight is more than scary. (How can they have an open end date when their last processing renewal was only for 5 years?) We hope you feel the same way. It is also disturbing that no other explanation is included in the Public Notice letter from Evans.

There is no explanation of what this small mining permit will entail...batch plant, asphalt plant, crushing, excavation and what else?? If a mining permit is for excavation only, it is our understanding that the gravel was mined out a few years ago, and that further extraction from the river will not be permitted except for maybe small amounts to protect the Wilson Bridge. We would also hope the county would object to this application on its own merits but also waiting for some input from the new gravel task force that is supposed to be formed.

Also of concern to us is there has always been an annual evaluation of the operation in January. This did not happen this year...or else if it did, we never received notification of the meeting, which is required due to our proximity to the operation. What is the status of that annual review? We filed a noise complaint in June 2008 and a couple of days later the crusher was apparently moved and no more noise was heard the rest of the summer. Coincidence or planned?

We will be sending our written objection to the Office of Land Quality Division of the Department of Environmental Quality in Cheyenne and we will request a public hearing be conducted as a contested case in accordance with Wyoming Administrative Procedure Act.

Please let us hear from you regarding the non annual review this past January.

Regards,

Harold (Butch) and Linda Williams

Teton County Board of County Commissioners
and
Paula K. Stevens
Interim Planning Director
Teton County Planning & Development

April 2, 2007

Dear Teton County Commissioners and Paula,

Re: River Springs Gravel Processing Facility
Special Use Permit (SUP 04-0001)

I own the property directly north of the River Springs Gravel Operation.

In reviewing the River Springs application to continue for ten years, until December 1, 2016; the Planning Commission and Staff Recommendation; and the other relevant materials that were available on the website, I have a few comments and questions.

Fourteen years ago, in 1992, the County created a "Gravel Task Force" to consider possible solutions to supply and demand issues associated with gravel needs of the valley. Several of the reasons for selecting the River Springs site were the opportunity to extract gravel at the site and the opportunity to provide some competition in the Teton County gravel business.

On page 5-12 of the Staff Report (4-3-07) it is stated that "no on site extraction is proposed." Thus all material must be hauled onto the site for processing, so that reason for choosing this site is no longer valid. Additionally, it is my understanding that all the SRA construction, near the Teton Village, will be using gravel obtained and processed on the SRA land there, eliminating the need to obtain processed gravel for that large west bank project from another location.

Regarding competition: because Evans now operates the River Springs gravel operation there is no longer competition. So the "competition reason" is eliminated leaving a monopoly of this business.

Because it has been 14 years since the county has examined this issue, I request that a 2007 Gravel Task Force be created to review the Teton County gravel situation, as it relates to this Special Use Permit in particular which is supposed to be a temporary permit and if approved as recommended will last twenty years.

I have tolerated this unexpected industrial use next door to my property for ten years. This residential neighborhood has put up with this inherently incompatible use for a decade and should not be required to put up with it for another decade.

I request that the renewal of this SUP be denied.

If this SUP is approved, I request that the time period for the SUP be limited to 2 or 3 years, no more than 5 years, allowing the county to create a 2007 Gravel Task Force to study the situation in Teton County now and going forward.

2.

River Springs Processing Facility

4-2-07

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In a letter dated April 15, 2005, to Bart Meyers, Teton County Code Enforcement Officer, regarding the Application for Extension of the River Springs Gravel Operation, from Craig Jackson, Teton County Engineer, 6 very relevant questions regarding truck trips and gravel extraction were posed. I would request that these questions, which are attached on a separate page, be answered and the answers be evaluated and be made available to me and the public.

My questions I will present following the order of the conditions listed in the Planning Commission and Staff Recommendation (3-26-07).

1. What is the present status of the Small Mining Permit? Has the State DEQ approved this permit? If not, where is it in the process? If the Small Mining Permit is issued, I request that the additional 2 ½ acres be used ONLY for noise reduction if there is room for it on the north side of the property, leaving the 300 foot setback from the property line (Staff Report NB 5-11), otherwise the 2 ½ acre location should be on the south side of the property.
2. Together with keeping records of vehicles entering and exiting the site, I request that the words of the 1996 Condition 2, be included which are "that the total number of trips per day shall not exceed 420 trips per day". Even at 420 trips the trucks are sometimes backed-up on Hwy 390, waiting to be weighed upon entrance to River Springs.
3. Regarding hours of operation, I request that hours be limited to 8:00am to 5pm, Monday through Friday, and 8 to noon on Saturday, which shall be for pick up only. (After 5pm, the noise of this industrial operation is a serious interference in the use and enjoyment of the homes of the neighborhood. If Evans is allowed to operate until 6pm, regardless of this interference during the early evening, I request that between 5pm and 6pm the employees be limited to "activities that do not have visible or audible impacts", as is the qualification for having access to the site at 7am from Monday to Friday.)
4. Has a reclamation plan been reviewed and approved (request that this word be included) by a wildlife biologist or the WY Game & Fish Department? August 1, 2006 WY Game & Fish stated in their letter that "We are interested in reviewing the reclamation plan for this area to ensure benefits of wildlife." There is no information that this task has been completed.
5. What is the amount of the surety for completion of the reclamation of the site? Is it the same as in the past? Does it relate, really, to the cost of reclamation and have there been adjustments for inflation?
6. Has a plan been submitted for the elimination and control of noxious weeds?
7. Turn lane by 7-1-07 is good idea. What happens if the turn lane is not completed by that date, because it is a condition, the operator should not be allowed to have operations after 7-1-07 if the turn lane is not completed.

River Springs Processing Facility

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8. Has WYDOT issued an access permit yet, as Tory Thomas mentioned in his email of 9-19-07? September 19, 2007 Tory Thomas, District Traffic Engineer had attached a M-3 Access Permit for the landowners to sign and return to him. I do not know what kind of access permit this is.
9. What happens if visual screening is not completed within one year, as listed in this condition?

LDR: Chapter 1: Community Vision – Goals – Guiding principle #3 states: “As a community grounded in values of individualism, fairness and hospitality, the intent of the Plan is to provide property owners and local businesses with as much flexibility as possible in the use and development of their property.”

The local business operating the River Springs Gravel Processing site has been given the opportunity to use and develop the subject land for its benefit.

Now it is time for the residential property owners to be given the opportunity to fully enjoy the use of their property as it is zoned.

I request that the Special Use Permit not be renewed. If the County Commissioners choose to renew this SUP, I respectfully request that the renewal be for 3 years, or a maximum of 5 years.

Sincerely yours,

Julie Obering

Attachment: Teton County Engineer questions

4.

River Springs Processing Facility
4-2-07

Attachment: Teton County Engineer, Craig Jackson's Questions
to Bart Meyer in 4-15-05 letter

"I request the applicant provide real numbers which back up the claims of reduced truck trips. I request the following questions be answered:

1. How many tons of material are extracted annually from the river at the River Springs Gravel location?
2. How many tons of material are hauled to the River Springs Gravel Site from other locations? Where is this other gravel hauled from and what are the quantities?
3. How many truck trips are taken off the highways? Show how these numbers are derived. Which highways receive the benefit of lower truck volumes? Are any of the highways negatively impacted?
4. Describe a typical truck route using the River Springs Gravel Pit beginning from where it is parked and started to when it parks at night. Assume the truck is servicing a West Bank Project. Be as specific as possible. Estimate the number of miles traveled during a day.
5. Describe the same truck route serving a West Bank Project if River Springs Gravel Pit was no longer in use and the gravel had to be obtained from another location.
6. Have there been accidents at the intersection involving trucks using the River Springs Gravel source?

Andrea Richard

From: Butch and Linda Williams [wyowilliams@wyoming.com]
Sent: Tuesday, April 28, 2009 6:25 PM
To: Andrea Richard
Cc: Obering, Julie
Subject: background on Evan's permit

Andrea,
Because we are in Mexico, I only have recent communications with Jeff Daugerty and BCC on my computer here. I will put these in order for your review. The jist of this refers to their non compliance.

We have the same concerns as Julie. We do not want a small mining permit, especially one with no end date and no specifics as to what is allowed. At the most, we would not want to see this extended past the Dec 2011 date.

I will send you an attachment under separate cover that is their notice of intent, sent to the neighbors etc. I don't think that Julie got a copy of this, other than the one I sent to her.

It is all frustrating. I have lots of documentation from literally year ago about this site and problems, objections etc.

I hope this stuff helps in the meantime.

Linda and Butch

To: commissioners@tetonwyo.org
CC: jtobering@wyoming.com
Subject: Evans Construction Small Mining Permit--OBJECTION
Date: Sat, 14 Mar 2009 17:18:13 -0800

Dear Commissioners:

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Please let us hear from you regarding the non annual review this past January.

Regards,

Harold (Butch) and Linda Williams

From: jdaugherty@tetonwyo.org
To: wyowilliams@wyoming.com
CC: lelandchris@hotmail.com; jbodine@tetonwyo.org
Date: Wed, 25 Mar 2009 15:35:03 -0600
Subject: River Springs

Butch and Linda,

The 2.5 acre expansion would allow activities such as stockpiling to occur on a specific parcel of property beyond the boundaries of the original permit. In 2007, Evans was granted a Special Use Permit (SUP) to expand operationally on to the additional 2.5 acres on the condition they gain DEQ approval. The SUP approval gave Evans 1 year to satisfy that condition. Staff brought the DEQ condition to the attention of Evans in 2008. Because the permit technically expired for the expansion area, Evans will now have go back to square one for this 2.5 acres. That means they will need to complete the DEQ process and then reapply for the SUP for the 2.5 acres, which will be processed as an amendment to SUP 04-0001. So, I would say you are correct in asserting the DEQ permit and the SUP are one in the same – in that they are both needed in order to allow the proposed use. However, the original SUP would continue to allow the larger parcel to operate until 2011.

To your second question concerning consequences; they are facing the consequences now. Staff is requiring River Springs amend the SUP for the expansion area. Evans may be caused to reclaim the 2.5 acre area if the approvals of either the DEQ or SUP are unsuccessful. As for the main operation, Teton County does not have the ability to impose civil penalties. Therefore, if necessary, we will seek what we call abatement. Abatement is a formal legal process whereby the County would demand that Evans immediately take steps to comply with all requirements – that is submit the annual report, get DEQ permits, amend the SUP or reclaim the 2.5 acre site. Since they are voluntarily making a good faith effort to become compliant, abatement is not necessary at this time.

We are advised by Evans that we can expect the annual report in the next couple of weeks. Based on the content of the report, we will determine whether the main portion of the operation is in compliance with the approval. If it is not, additional abatement/Article 9 action would be brought against Evans. But without Evan's submitting the report and amending the SUP we cannot speak definitively as to what activities have even moved into this 2.5 acre area, which could mean quite possibly that no reclamation work is required at this point.

Once staff has reviewed the report, it will be placed on an agenda for review by the Board of County Commissioners. You are encouraged to provide comment at that meeting.

Ms. Anderson double checked her phone records for your complaint. While as you point out, she did not immediately locate the complaint, she has since found it in her records. She spoke with you on June 17, 2008. Thank you for bringing your complaint to our attention. We are in the process of electronically scanning all of our files thus, some documents are not available immediately. However, we do record complaints.

I hope this is helpful. Thank you taking the time to discuss your concerns with this office.

Regards,

Jeff Daugherty.

From: wyowilliams@wyoming.com
To: lelandchris@hotmail.com
Subject: Re: Evans Construction Small Mining Permit--OBJECTION
Date: Mon, 16 Mar 2009 19:47:59 -0800

Leland,

Can you tell us what happened to the annual review of the gravel pit operation at River Springs this past January???

Linda and Butch

Here is the reply from JD to BCC regarding my inquiry as to why no annual meetings, as required by their SUP.

Commissioner Christensen,

Jennifer just pulled the file for River Springs and reviewed the last SUP permit (04-0001). It was approved in April 2007, by the BCC with the permit issued in November 2007. Here are some of the main points:

- The original SUP 96-0001 issued for this site expired December 1, 2006.
- The current permit (SUP 04-0001) is for 4 years so it can operate until December 1, 2011.
- It is permitted as a Level 1 site, which means they may screen, crush, gravel recycle, wash, and stockpile aggregate. It does NOT permit asphalt production or cement which would require a hotmix plant.
- This permit required that Evans obtain a DEQ permit for the 2.5 acre expansion - conditionally enabled by the permit. Evans failed to acquire this consistent with the 1 yr. timeline set forth in LDR. I advised them last year that this permit must be obtained and that SUP 04-0001 may need to be brought before the BCC again to ensure LDR compliance.
- Evans Const. is still in the process of obtaining a DEQ permit for the 2.5 acre expansion associated with the SUP permit. A public comment period is open regarding the DEQ permit - it is what the newspaper this week referenced. If memory serves, they started this process last summer with DEQ. Should DEQ deny the permit request, the 2.5 acre expansion is null and void and has to be reclaimed. However, Evans would be able to continue with the original 10 acres until 2011.
- While the SUP 04-0001 permit did not condition that an annual review be done, it is a requirement of the LDRs (Section 5140.C.10). It states:

Annual review of Special Use Permits. Special Use Permits for gravel extraction and processing shall be reviewed annually by the Board of County Commissioners. The scope of this annual review shall be limited to reviewing continued compliance with land use regulations, as well as the conditions of the initial approval. All gravel extraction and processing Special Use Permit operations, that have been in operation for at least nine (9) months, shall be reviewed in a public meeting during the month of January each year thereafter. The permit for any gravel operation which is found to be in noncompliance with the land use regulations or the conditions of its Special Use Permit approval may be suspended or revoked, or other appropriate remedies may be pursued by the County. The annual review does not preempt or prevent normal inspections and enforcement remedies.

In reviewing the Commissioner's meetings, annual reviews did take place until 2003. Staff could not find any evidence in the archives that an annual review took place since the issuance of the current permit SUP 04-0001. (The SUP application was received 3/1/04 but didn't start the public hearing process until 2006 and then was approved in 2007. The record does not describe why it was delayed so long.)

- Since Ms. Anderson has been on board (3 yrs in July), she has not received any complaints concerning this operation.
- She will contact Evans to see why a report for 2008 and 2009 annual report have not been submitted. She will advise that they prepare one immediately for the review of the BCC.

Regards,

Jeff Daugherty