



ATTORNEY AT LAW

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October 25, 2010

By Facsimile and U.S. Mail

Don McKenzie, Administrator
Wyoming Department of Environmental Quality
Land Quality Division
510 Meadowview Drive
Lander, WY 82520
Fax: (307) 332-7726

Re: McMurry Ready Mix Company Eastfork Ranch Mine Permit Application

Dear Mr. McKenzie:

I represent Dave and Sandra Goodwin, neighbors to the proposed Eastfork Ranch Mine in Boulder, Wyoming. Your Division has recently published notice of the mine permit application for public comment. The Goodwins and their neighbors intend to submit detailed comments on that permit application, and to request a contested case hearing within the noticed public comment period. At this time, I write to raise our concerns about the Division's coordination with Wyoming Game and Fish concerning sage grouse habitat and potential impacts.

As you may know, Governor Freudenthal issued Executive Order 2010-4 on August 18, 2010. That order imposes new obligations on all state permitting agencies relating to protection of sage grouse, in particular their protection in certain core areas. The proposed mine falls within such a core area, and very near several active leks. Therefore, permitting the mine falls under EO 2010-4.

EO-2010 imposes new, more stringent requirements on state agencies, and would, we believe, likely prohibit the proposed mine, or, at the very least, impose new conditions on its development. The Order imposes strict surface disturbance limitations; it requires no surface occupancy within 0.6 miles of existing leks; it imposes transportation requirements that would require haul roads to be more than 1.9 miles from the perimeter of occupied leks; it imposes

noise limits; and it prohibits any more than one mining area per square mile. Those are just some of its provisions.



EO-2010 requires the applicant, in conjunction with Game and Fish, to perform a Project Impact Area Analysis (PIAA). No such PIAA has been performed for the Eastfork Ranch Mine. The PIAA will assist Game and Fish in its review, and, ultimately, aid your Division in your review of the appropriateness of this permit.

Your office has consulted with Wyoming Game and Fish relating to this application in the past. For your convenience, two correspondence on the subject from Game & Fish are attached hereto. However, to my knowledge, no such coordination has taken place since the Governor signed EO 2010-4. Therefore, we ask that this permit application be placed on hold, and the current deadline for public comment (November 22, 2010) be cancelled, until such time as your Division, in coordination with Game and Fish and the applicant, has had an opportunity to determine the application's consistency with EO 2010-4.

I have spoken with Scott Gamo, in the Cheyenne office of Game and Fish. He informed me that a request for their review of the permit under EO -2010-4 should come from your office. Please make such a request, so that this application may be properly reviewed under the Governor's Executive Order, and all measures necessary to protect area sage grouse may be considered and implemented.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Sullivan', written over a horizontal line.

Mark D. Sullivan

Cc: Tanya King
Scott Gamo
Harriet Hageman, Esq.
Dave and Sandra Goodwin



WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4610

Web site: <http://gf.state.wy.us>

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February 12, 2010

WER 12047
Department of Environmental Quality
Land Quality Division
Small Mining Permit Application
Eastfork Ranch Mine
McMurry Ready Mix Company
Sublette County



Mark Moxley
Land Quality Division
Wyoming Department of Environmental Quality
510 Meadowview Drive
Lander, WY 82520

Dear Mr. Moxley:

The staff of the Wyoming Game and Fish Department has reviewed the small mining permit application for Eastfork Ranch Mine submitted by McMurry Ready Mix Company in Sublette County. We offer the following comments for your consideration.

Terrestrial Considerations:

Based upon the legal descriptions provided, the proposed project lies within a sage grouse Core Area. In addition, most of legal section 7 lies within moose crucial winter range. However, the boundary for this project actually lies just to the north of mapped moose winter range, therefore, no winter stipulations for moose need be applied.

This area already consists of several gravel operations and has experienced surface disturbance. In an effort to reduce or mitigate potential negative impacts to sage grouse and remain compliant with the Governor's Executive Order related to sage grouse protection in Core Areas, we recommend the following stipulation be applied:

- Any facilities should lie outside a 0.6 mile radius of active leks.

In addition, we recommend facilitating reclamation as quickly as possible to provide some level of habitat to sage grouse and other species that utilize this area.

Headquarters: 5400 Bishop Boulevard, Cheyenne, WY 82006-0001
Fax: (307) 777-4610 Web Site: <http://gf.state.wy.us>

gmm 2/12/10

Mr. Mark Moxley
February 12, 2010
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We have recently been working closely with DEQ and the mining industry to develop an appropriate management strategy that accommodates mining while maintaining the integrity and functionality of Core Area habitat. To that end, we recommend McMurray Ready-Mix and its proprietor coordinate and discuss this development with WGFDC Cheyenne office staff.

Aquatic Considerations:

The propose project is within 0.5 miles of the East Fork River. The East Fork River is classified has a Green Ribbon trout stream of local importance. Fish species found in this stretch of river include brook trout, brown trout, mottled sculpin, mountain sucker, mountain whitefish, and rainbow trout. Mountain suckers are designated as NSS3 species which means their habitats are vulnerable yet the population is remaining stable. The other native fish species present in the East Fork River have been designated as stable (NSS4).

To minimize impacts to the aquatic resources of the East Fork River, we recommend the following:

- Accepted best management practices should be implemented to ensure that all sediments and other pollutants are contained within the boundaries of the work area. Disturbed areas that are contributing sediment to the East Fork River as a result of project activities should be promptly re-vegetated to maintain water quality and channel stability.
- Buffer zone of 500 feet or of undisturbed vegetation should be left along each side of the East Fork River to minimize sedimentation and direct fish habitat impacts.
- Equipment should be serviced and fueled away from streams and riparian areas. Equipment staging areas should be at least 500 feet from riparian areas.
- We recommend that water not be pulled from the East Fork River during construction or operation of the small mine. ←

Thank you for the opportunity to comment. If you have any questions or concerns, please contact Ms. Hilda Sexauer, Pinedale Region Fisheries Supervisor, at 307-367-4347, or Scott Gamo, Staff Terrestrial Biologist, at 307-777-4509.

Sincerely,

for John Emmerich
Deputy Director

JE: MF:gfb

cc: USFWS
Hilda Sexauer, Scott Smith, Pinedale Region



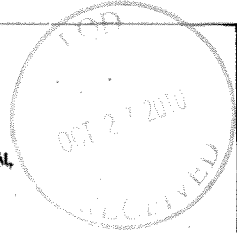
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June 8, 2010

MEMORANDUM

TO: Matt Fry, Mary Flanderka

FROM: Scott Smith

COPY TO: Jill Miller, Gary Butler, John Emmerich, Dean Clause, Bernie Holz, File

SUBJECT: Bousman/McMurray Proposed Gravel Pit

Attached is a second version of GIS analysis completed by Jill Miller for the proposed Bousman/McMurray gravel pit. This version has a smaller analysis area (67,236 acres) and 5% threshold (3,362 acres) as the analysis area was reduced to match only mapped core sage grouse habitat. The first version used the entire 4 mile buffers regardless of core habitat designation. This GIS analysis also excluded state highways (60 foot buffer each side of roadway), county roads (30 foot buffer each side of roadway), and subdivisions (4 acre exclusion for building envelope). Home sites within subdivisions were buffered by 4 acres to account for permanent habitat loss from human development. Entire private parcels were not excluded as these two subdivisions are large tract (35-40 acres) developments and located within 300 yards of sagebrush habitat of 15% canopy cover. Listed below are the acreage totals from the analysis:

Vegetation Treatments: 1,755 Acres
State Highway/County Roads: 199 Acres
Private Home Sites: 60 Acres
Other Disturbances: 236 Acres
Proposed Gravel Pit: 345 Acres

Total Disturbance: 2,595 Acres
5% Threshold: 3,362 Acres

Based on the revised analysis, the 5% disturbance threshold for core sage grouse habitat has not been exceeded by this proposed project.





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FACSIMILE COVER SHEET

To: Don McKenzie, DEQ Administrator, LQD

Fax #: (307) 332-7726

From: Mark D. Sullivan

Date: October 25, 2010

Re: East Fork Ranch Mine Permit Application – Game and Fish
Consultation

Pages
Including Cover: *2 6*

Message: Please see the attached letter.