

Steven F. Freudenthal
Freudenthal & Bonds, P.C.
129 East Carlson Street
P.O. Box 387
Cheyenne, WY 82009-0387
(307) 634-2240

BEFORE THE WYOMING ENVIRONMENTAL COUNCIL

In the Matter of Strid Marble &)
Granite, Co., Small Mine) Doc. No. 12-4801
Application, TFN 5 6/121)

Strid Marble & Granite, Co. Response to Objections

COMES NOW the Applicant, Strid Marble & Granite Co., by and through its undersigned attorneys, pursuant to Section 1(a) of Chapter II, Rules of Practice and Procedure Applicable to Hearings in Contested Cases, and submits its responsive pleading to the undated letter on the letterhead (receipt-stamped April 12, 2012) of Falkenburg Ranches as supplemented by the submission of Jeff Falkenburg on April 27, 2012. This responsive pleading does not constitute a waiver that the letter did not and does not constitute a petition or protest under the applicable statutes and rules.

A. Objection: Detracts from viewing of Poison Lake and scenic view from the ranch house:

Response: The area has not been designated by the Environmental Quality Council under W.S. 35-11-406(m)(iv) as being a "rare or uncommon area" having particular "historical" or "scenic" value. The subsection does not apply, but even if

applicable, the proposed quarry does not pose a threat of irreparable harm, destruction or material impairment of those values.

W.S. 35-11-406(m)(iv): The proposed mining operation would irreparably harm, destroy, or materially impair any area that has been designated by the council a rare or uncommon area and having particular historical, archaeological, wildlife, surface geological, botanical or scenic value;

B. Objection: the mine permit area is adjacent to Upper Wagon Hound Road, a county road; and (2) Upper Wagon Hound Road is less than 100 yards from existing ranch buildings resulting in location issues, dust control, dust pneumonia and travel safety.

Response: The mine permit area and boundaries comply with all requirements of the Wyoming Environmental Quality Act and the applicable rules and regulations.

"There is no occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery within 300 feet of the permit boundary for the quarry operation." At MP-4.

"No blasting or use of explosives would be required at this quarry operation." At MP-5.

Water will be hauled from Douglas for the quarry saw. Annual consumption of approximately 10,000-15,000 gallons (make-up water of 250 gallons a day for 60 days of operation).
MP-4.

From the south permit boundary to the largest building is 450 feet. From the south permit boundary to the occupied residence is 670 feet. If the south permit boundary is relocated from the south boundary of the state lease to 100 feet south of the disturbed area (which is the requirement), the distance from the relocated south permit boundary to the residence is 1,020 feet.]

W.S. 35-11-406(m)(viii): The affected land lies within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery, unless the landowner's consent has been obtained. The provisions of this subsection shall not apply to operations conducted under an approved permit issued by the state land commissioner in compliance with the "Open Cut Land Reclamation Act of 1969"

The Applicant has received Permit Waiver wv-11729 dated February 28, 2011 from the Wyoming Air Quality Division in which the AQD ". . . determined the proposed mining operation (35 acres) to be insignificant in emission rate and ambient air quality impact, and waives permitting under Chapter 6, Section 2(k)(viii) [of the regulations]."

The traffic volume for the quarry operation is limited in volume, days of the year and time of year:

TRAFFIC VOLUME: ROUND-TRIPS	
	1,000 TPY/60 days per year over

	May 1 through November 14
Water Truck	6
Fuel/Mining Equipment Transport	4
Block Transport	50
Total Heavy Truck	60
Pickups and light vehicles	90
Total Volume	150

Of the six and one-half months during which operations can be conducted under the permit, June through August are months that school is not held. With operations over sixty days, the average daily traffic volume is two and one-half round-trips per day.

While there appears to be some literature on dust pneumonia affecting livestock confined in feedlots, there is no literature regarding dust pneumonia in open range livestock other than from the dust bowl phenomena of the 1930s. Given the time of year for no operations (November 15 through April 30), livestock concentrated near the ranch buildings for winter feeding would not be affected by traffic from the quarry.

C. Objection: The quarry operation will adversely affect critical mule deer habitat.

Response: As part of the permitting process, the

Applicant received, considered and incorporated the recommendations of the Wyoming Game & Fish Department. At Appendix D-9: "Wyoming Game and Fish Department and the United States Fish and Wildlife Service recommends no activity within the permit area between November 15 and April 30." [G&F letter of July 28, 2009 is found at Attachment 5, at Att5-13: "The WGFD therefore recommends no surface disturbing activity or human presence occur from November 15th through April 30th of each year."]

The Mine Plan specifically incorporates the recommendation: "Because of the crucial winter habitat for mule deer, the quarrying season would be limited to the warmer months from May through November 14. Transport of blocks would not take place at other times of the year." At MP-1. "No site activities would be conducted during the period of November 15 through April 30." At MP-2.

And habitat will be restored upon completion of mining: Table PT-1: Affected mountain mahogany for the entire site starts at 7 acres and goes to 12 acres over the 30 year life of mine. This is a minute part of the total mountain mahogany in the area. Upon cessation of operations, the affected area will be re-seeded under a LQD-approved seed mix.

D. Objection: The quarry jeopardizes water quality of

Wagonhound Creek with silt and muddy water during run-off events.

Response: The Applicant has received from the Water Quality Division "Authorization to Discharge Storm Water Associated Mineral Mining Activities (except fuels) under the Wyoming Pollutant Discharge Elimination System" for the quarry.

As described in the application at Appendix D-6: "estimated drainage area for this ephemeral drainage area is approximately 3 acres of which all is within the permit area." The Mine Plan identifies specific control measures: "The quarry site is located at the upper reach of an ephemeral swale. Any surface water runoff would be from snow melt or rainfall and would be diverted from the disturbed area by use of ditches and berms. Alternative sediment control measures that minimize erosion within the disturbed area would be placed at downslope locations, as needed, and would control contribution of suspended solids in runoff from the disturbed area." At MP-3A to MP-4.

The quarry and drainage area are separated from Wagonhound Creek by the county road and the borrow pits on both sides of the county road.

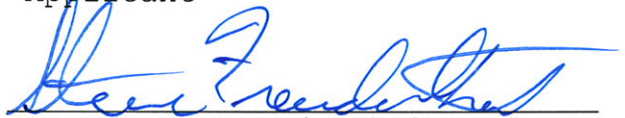
WHEREFORE the Applicant prays that the objections be

denied and the permit issue.

DATED this 4th day of May, 2012.

Strid Marble & Granite Co.,
Applicant

BY:



Steven F. Freudenthal
Attorney No. 5-1468
Freudenthal & Bonds, P.C.
129 East Carlson Street
P.O. Box 387
Cheyenne, WY 82009-0387
(307) 634-2240

CERTIFICATE OF SERVICE

I, Steven F. Freudenthal, do hereby certify that a true and correct copy of the foregoing was served by depositing same in the United States mail, first class postage prepaid, this 7th day of May, 2012 addressed as follows (and/or as an PDF attachment to the email addresses shown):

John Corra
Director, DEQ
john.corra@wyo.gov

Kenneth R. Taylor
1070 Poison Lake Road
Douglas, WY 82633-9209
ktaylor@wagonhound.com

Nancy Nuttbrock
Solid & Haz. Waste Div.
Nancy.nuttbrock@wyo.gov

Lyndon J. Fink
756 Wagon Hound Road
Douglas, WY 82633-9203

George & Phyllis Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208
poisonlakewyo@yahoo.com

Darren Fink
756 Wagon Hound Road
Douglas, WY 82633-9203

Jeff Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208
falky77@yahoo.com

Pamela Haar
1200 Poison Lake Road
Douglas, WY 82633-9227
rphaar@gmail.com

Mary Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208
mblldread@yahoo.com

Benny & Pauline Middleton
1200 Poison Lake Road
Douglas, WY 82633-9227
deerfork@gmail.com

Garret Falkenburg
1092 Wagon Hound Road
Douglas, WY 82633-9203

Luke Esch
Sr. Asst. Atty General
Wyo. Atty Generals Office
123 Capitol Building
Cheyenne, WY 82002
luke.esch@wyo.gov

Wagonhound Land & Livestock
Attn: Dustin J. Ewing
1468 Esterbrook Rd
Douglas, WY 82633
dewing@wagonhound.com

And was further served upon the Environmental Quality Council via PDF attachment addressed to Kim Waring at E-mail: kim.waring@wyo.gov with the original and seven copies mailed via U.S. First Class Mail, postage prepaid to:

Environmental Quality Council
Herschler Building, 1st Floor West Room 1714
122 West 25th Street
Cheyenne, WY 82002


Steven F. Freudenthal