

October 31, 2024

VIA REGISTERED MAIL RETURN RECEIPT REQUESTED

Petitioners

Daniel Shefter  
Lucyna Shefter

Physical Address of Petitioners:  
120 Dell Creek Rd, PO Box 504  
Bondurant, WY 82922

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Bondurant, WY 82922

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In Re: Evans Construction Company, Application for Small Mine Permit, TFN 7 1/193  
REQUEST FOR HEARING BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

Recipient of Service of Petition

Environmental Quality Council  
2300 Capital Ave.  
Hathaway Building, Room 136  
Cheyenne, WY 82002

With Copies sent by Registered Mail, Return Receipt Requested, to:

Todd Parfitt, Director  
Wyoming Department of Environmental Quality  
200 West 17<sup>th</sup> St  
Cheyenne, WY 82002

Evans Construction  
P.O. Box 4309  
Jackson, WY 83001

The Petitioners, Daniel Shefter and Lucyna Shefter, are contesting the October 4, 2024 decision (the "Conditional Approval") of the Environment Quality Council, Land Quality Division (EQC) to approve the small mine permit 7 1/193 located on Dell Creek Rd in Bondurant WY (the "Mine Permit") and request a hearing before the Environmental Quality Council (the "Council") to the extent the Conditional Approval is not revoked or the applicant for the small mine permit ("Applicant") does not withdraw its application.

The Petitioners believe the EQC's decision to grant the Conditional Approval was flawed and based on inaccurate information, and the EQC did not adequately address the concerns of the 55 objection letters that were submitted and that unanimously opposed the issuance of the Mine Permit. Petitions would also note that even if the Conditional Approval is finalized, the Applicant has clearly violated the terms of the Conditional Approval given that the Applicant immediately commenced expanded mining operations on September 9<sup>th</sup> despite the Conditional Approval imposing four conditions before any activities related to the operations associated with the Mine Permit were approved. Thus, this is further indication of the false statements and bad faith of the Applicant.

#### **Inadequate Notice**

While the Conditional Approval letter detailed the notices that the Applicant purportedly provided to affected parties, the Applicant clearly intended to hide the proposed expansion of their mining operation from residents of Bondurant. In particular, the Applicant purportedly published a notice in the Pinedale Roundup during July and August 2024. However, the Pinedale Roundup is not a newspaper in the locality of the proposed mining site that is the subject of the Mine Permit given Pinedale is an hour's drive from Bondurant. Moreover, no resident of Bondurant receives the Pinedale Roundup (the Petitioners have personally never heard of this paper) so it was clearly designed to avoid Bondurant residents from receiving advanced notice. While Bondurant does not have a local newspaper, the closest town with a newspaper is Jackson Hole and many residents of Bondurant read the local Jackson Hole newspaper. In fact, during the notice period for objecting to the mining application and upon issuance of the Conditional Approval the only newspaper that wrote articles about the Mine Permit was the Jackson Hole News & Guide. Thus, Jackson Hole should have been the locality where the notice was published if the applicant didn't have the decency to post notices at the post office in Bondurant.

The lack of adequate notice is especially troubling since the Applicant is required to apply for permit revisions if plans for the mining operation are altered or if they violate any of the conditions. However, given the historical behavior of the Applicant we would expect it to take all possible actions to hide such revisions or violations from Bondurant residents.

#### **Pronghorn Migration**

As noted in the Conditional Approval, the Wyoming Game and Fish Department ("WGFD") is currently in the process of designating Pronghorn Migration Corridors which are expected to be designated in the next year. While they expect the proposed mining operation to be in a

low/medium use stopover area, this initial conclusion may be due to the fact that they haven't completed their study and fully investigated the area around the proposed mining operation. As Bondurant residents living close to proposed mining operation, the Petitioners can assert that the area immediately adjacent to the proposed mining operation is a summer home to many pronghorn and an extensive migration corridor. Thus, at a minimum the approval of the Mine Permit should be delayed until WGFD has finalized its study and finalized its designated areas.

### Eagle and Raptor Nests

The Conditional Approval states that the applicant engaged Biota Research to determine if there are active raptor or hawk nests within ½ mile or 1 mile of the mining operation. However, it is doubtful that this consultant could have reached a definitive conclusion on this topic since they would not have had access to all applicable nesting grounds within a mile of the proposed mining operation given a large portion of the land within a one mile radius is situated on private properties and the neighbors did not grant permission to Biota Research or the Applicant to enter their properties.

### Compliance Concerns

The EQC dismissed out-of-hand all the compliance concerns raised in the objection letters. While it's impossible to prove today that the Applicant will violate the terms of the Mine Permit in the future, the applicant's actions to date already illustrate that they don't intend to follow the rules.

In particular, beginning on September 9, 2024 (i.e., the Monday after due date for objection letters related to the application for the Mine Permit), the Applicant moved in a large number of pieces of heavy equipment to the mining site and began to dramatically expand their existing mining operation. This expansion increased the size of the mining operation well beyond the 10 acre small gravel permit that was previously issued. This is a clear violation of the existing gravel permit.

The Conditional Approval letter was issued on October 4, 2024 which is well after the Applicant began to expand its existing mining operation. Moreover, Section 3 of the Conditional Approval letter imposed four conditions on the applicant "which shall be fulfilled prior to expansion of mining operations." Since these conditions could not have been satisfied in September when the Conditional Approval was issued on October 4<sup>th</sup>, the Applicant has already illustrated that it will take the "ask for forgiveness instead of permission" tactic for its proposed mining operation. This violation, by itself, should be sufficient for the EQC to deny the Mine Permit.

### Springs are Not Seasonal

The Conditional Approval letter continues to repeat the applicant's false assertion that springs running through the mining property are seasonal. This is not true and the EQC's acceptance of the applicant's false statements without independent verification is unacceptable. The Petitioners would also note that one adjacent Bondurant resident engaged Alder Environmental LLC which submitted a letter that highlights that there are streams that were flowing through the site of the proposed mining operation on August 28, 2024.

At a minimum, the consideration of the permit should be delayed until July 2025 and an independent party should be hired to verify (or refute) the Applicant's assertions with the ability of local residents to be on site when the third party does the investigation.

Violation of Zoning Regulations

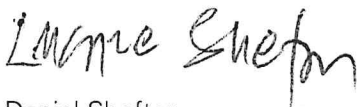
While zoning appears to be outside the scope of the EOC, the Petitioners would nevertheless state that the proposed mining operation clearly violates Sublette County setback rules which require a 300 foot setback from any public road. We have measured the actual setback using Google Maps and a laser measuring device at approximately 110 to 120 feet which is well below the minimum setback requirement.

Petitioners would also note that they have never been able to access the letter from Sublette County P&Z that was referenced in the Conditional Approval letter which purportedly states that the proposed mining operation does not conflict with existing zoning regulations.

Petitioners have also attempted to contact the Sublette County Planning Administrator (Dennis Fornstrom) on numerous occasions over the past two months and he has never responded to any of the Petitioners' emails or phone calls. Petitioners have also submitted a FOIA request to obtain all communications between Mr Fornstrom and the Applicant (and the Applicant's representatives), but have yet to receive any information in response. Thus, it appears there is some nefarious behavior between the Applicant and the Sublette Country P&Z department that somehow is allowing the Applicant to violate local zoning regulations in connection with their existing gravel pit and proposed mining operation.

Signed by Petitioners,

Lucyna Shefter



Daniel Shefter



Certificate of Service

Petitioners, Lucyna Shefter and Daniel Shefter, hereby certify that they have served notice to the relevant parties in connection with their petition for a hearing with respect to contesting the October 4, 2024 decision of the Environment Quality Council, Land Quality Division to approve the small mine permit 7 1/193 located on Dell Creek Rd in Bondurant WY and to request a hearing before the Environmental Quality Council (the "Council") to the extent the Conditional Approval is not revoked or the applicant for the small mine permit ("Applicant") does not withdraw its application.

Notice was served by sending the true and complete copies of the petition to the following parties by registered mail, return receipt requested, on October 31, 2024:

Environmental Quality Council  
2300 Capital Ave.  
Hathaway Building, Room 136  
Cheyenne, WY 82002

With Copies sent by Registered Mail, Return Receipt Requested, to:

Todd Parfitt, Director  
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Signed by Petitioners,



Lucyna Shefter



Daniel Shefter