

FILED

JAN 05 1983⁶⁶

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

DOCKET NO. _____

IN THE MATTER OF THE)
OBJECTION TO REEVES, INC.)
APPLICATION FOR A PERMIT)
TO MINE TFN 1 1/255)

ORDER

Pursuant to notice duly given to all parties in interest, this matter came on for hearing on the 12th day of August, 1982, at 7:00 o'clock P.M. in the Hospitality Room of the Buffalo Federal Savings & Loan, 106 Fort Street, Buffalo, Wyoming, 82834. Mr. Lee E. Keith, a member of the Environmental Quality Council, presided as Hearing Officer. The Applicant appeared and was represented by Mr. Timothy J. Kirven, Attorney at Law. Mr. John R. Perry, Attorney at Law, represented all protestors except Mr. Daniel R. Chamberlain, who appeared on his own behalf. The Department of Environmental Quality, Land Quality Division, was represented by Mr. Weldon S. Caldbeck, Assistant Attorney General.

With all parties participating in the hearing, the Environmental Quality Council having taken this matter under advisement and having been fully advised, and having considered all the testimony and evidence submitted by the parties, now makes its findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Reeves, Inc. of Buffalo, Wyoming, hereafter referred to as the Applicant, has filed an application TFN 1

1/225 for a permit to mine sand and gravel within the South Half, Southeast Quarter (S1/2SE1/4), Section 16; South Half, Southeast Quarter (S1/2SE1/4), Section 15; and Northwest Quarter (NW1/4), Section 22, all in Township 51 North, Range 82 West of the 6th Prime Meridian, Johnson County, Wyoming. The area will hereafter be referred to as the Irvine Pit.

2. During July, 1982, Mr. Daniel Chamberlain, Mr. Edwin Joubert, Mrs. Sharon Terry, and Mrs. Katherine Maggos (hereinafter referred to collectively as the Protestants) all filed objections to the permit application of the Applicant with the Land Quality Division pursuant to the provisions of W.S. 35-11-406(k).

3. The Protestants raised the following objections to the permit application:

a. The dust potential created by the proposed operation.

b. The noise potential created by the proposed operation.

c. The danger to which aircraft of the adjacent Buffalo Municipal Airport could be exposed.

d. The safety hazards to persons, especially children, created by the increased use of a narrow county road and city road situated between the airport and State Highway 87.

e. The apparent lack of a sufficient water supply for the Applicant to conduct its operations.

4. There lies between the entrance of the mining operation and State Highway 87 a county-controlled roadway and a city-controlled roadway (these roadways have been jointly referred to in the testimony as the Airport Road). The record reveals that the roadway between the 90° curve (by the Gunderman land) and the State Highway 87 is that portion controlled by the county (hereinafter referred to as the county road). The roadway between the 90° curve (by the Gunderman land) and the cattle guard is that portion controlled by the City of Buffalo (hereinafter referred to as the City Road). The City of Buffalo controls this portion by virtue of an easement it has obtained from the Rock Creek Land Company.

5. The County Road and the City Road are narrow. The 90° curve is also narrow. Both the curve and the roadways have narrow shoulders or no shoulders whatsoever.

6. The Applicant has committed to work with the City and County in making whatever improvements to the roads that are necessary to protect the public safety.

7. The evidence shows that as much as one hundred thousand (100,000) tons of gravel will be transported over the County and City Roads mentioned above per year. The County Road and the City Road are also used by school buses transporting children and young adults to and from schools.

CONCLUSIONS OF LAW

8. The Environmental Quality Council has jurisdiction over both the subject matter and parties of this proceeding.

9. Due and proper notice of the hearing in this matter was given in all respects as required by law.

10. W.S. 35-11-406(m)(vii) requires the Applicant to demonstrate the proposed mining operation does not constitute a public nuisance or endanger the public health and safety.

11. Certain aspects of the Applicant's operation can pose a public nuisance or endanger the public's health and safety. It is necessary that the Applicant take certain steps so that its mining operations will not pose a public nuisance to those persons whose homes are situated near the Applicant's mining operation, nor pose a safety hazard to persons using the County Road or the City Road or to aircraft using the Buffalo Municipal Airport.

12. Except for the deficiencies set forth above, the Applicant has complied with all other statutory and regulatory permitting requirements necessary to obtain a mining permit.

ORDER

WHEREFORE, pursuant to W.S. 35-11-112(c)(ii), it is hereby ordered that:

A. The Director of the Department of Environmental Quality and the Administrator of its Land Quality Division shall issue a permit to the Applicant, Reeves, Inc., to conduct sand and gravel mining operations in the South Half, Southeast Quarter (S1/2SE1/4), Section 16; South Half, Southeast Quarter (S1/2SE1/4), Section 15; and Northwest Quarter (NW1/4), Section 22, all in Township 51 North, Range 82 West of the 6th Prime Meridian, Johnson County, Wyoming, said mining operation being specifically described in TFN 1 1/225, and otherwise known as the Irvine Pit.

B. Said permit shall set forth and be subject to the

following conditions:

1. The Applicant shall confine mining operations to the hours of 7:00 o'clock A.M. to 5:00 o'clock P.M.
2. The Applicant shall position its spoil piles so that they are located between the sand and gravel pit and the residences of homeowners in and around the permit area.
3. The Applicant will negotiate with the city and county to improve the road between the mining operation and State Highway 87 to insure the safety of persons using said road. In particular the Applicant shall provide the city and county with machinery, materials and manpower to provide the following improvements insofar as they are deemed necessary by the city and county.
 - a. Widening the road to a minimum of twenty-four feet.
 - b. Providing turn-outs for use by school buses and other public conveyances.
 - c. Widening the 90° corner by the Gunderman land so that school buses and gravel trucks may negotiate the corner at the same time safely.

d. Widening the bridge at French Creek to twenty-four feet.

e. Straightening the exit and entrance ramps from the County Road to State Highway 87.

4. No equipment shall be erected by the Applicant on its permit site which is higher than the end of the runway at the Buffalo Municipal Airport. The Applicant shall not place lights near either end of the airport runway at the Buffalo Municipal Airport.

5. The Applicant shall engage in a dust-control program as approved by the Administrator of the Air Quality Division of the Department of Environmental Quality.

C. The conditions set forth in Paragraph B above are not exclusive but are in addition to those conditions already set forth in the permit as previously issued to the Applicant by the Land Quality Division.

DATED this 28th day of Dec, 1982.



LEE KEITH, HEARING OFFICER
ENVIRONMENTAL QUALITY
COUNCIL

CERTIFICATE OF SERVICE

I, Walter Perry, III, hereby certify that the foregoing Findings of Fact, Conclusions of Law and Order was served by placing a true and correct copy thereof in the United States mail, postage prepaid, this 4th day of January, 1983, addressed as follows:

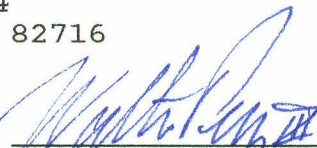
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