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Terri A. Lorenzon, Director
Environmental Quality Council

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF OBJECTIONS)
TO THE MINING PERMIT APPLICATION) DOCKET NO. 01-4805
OF CALL GRAVEL, TFN 3 1/262)

ORDER

This matter came before the Environmental Quality Council (EQC) for hearing on August 27, 2001, in Alpine, Wyoming. EQC members Thomas Dunn and Nick J. Bettas conducted the hearing, with Mr. Dunn serving as hearing examiner. Terri A. Lorenzon, attorney for the EQC, assisted with the hearing. Call Gravel (Call) was represented by Eugene Call, owner/operator. The State of Wyoming, Department of Environmental Quality, Land Quality Division (LQD) was represented by John Burbridge, Assistant Attorney General. The Petitioners, Carla Stone, Mary Flowers, and Betty Armani-Rogers, represented themselves at the hearing.

FINDINGS OF FACT:

1. In April of 1999, Call Gravel, the Applicant, applied for Small Mine Permit # TFN 3 1/262.
2. The DEQ approved Permit # TFN 3 1/262 and Call published notice of the pending permit pursuant to the Environmental Quality Act, Section 35-11-406, W.S. 2000.
3. Petitioners filed timely objections to the issuance of the permit. They objected to the application on the following grounds: 1) the mine will produce excessive dust from the crusher and road, 2) noise from the mining operations will be excessive, 3) mining operations need to be fenced, and 4) the location of the mine is not zoned by the county for a mining

operation.

4. Call Gravel has operated a pit on the edge of the town of Alpine for approximately 30 years.
5. The Wyoming Department of Transportation (WYDOT) operates a larger, fenced gravel pit that is separated from the Call pit by a county road. Both gravel pits use the county road for access and hauling.
6. The WYDOT gravel pit is not regulated by DEQ.
7. Subsequent to the development of the Call gravel pit a subdivision was built in close proximity to the Call pit and to a Wyoming Department of Transportation (WYDOT) pit.
8. At the request of LQD, the Air Quality Division inspected the Call pit on August 20, 2001. Air Quality reported that Call Gravel was in compliance with Air Quality standards.
9. Testimony indicated that dust and noise are generated by traffic on the county road that separates the WYDOT and Call operations and from both operations. When witnesses observed the dust or were disturbed by the noise, they could not determine the origin of the problem.
1. The road that runs between WYDOT's gravel pit and Call's is a county road, and the county is responsible for maintenance and dust control. The Air Quality inspection found that the county had treated the road with dust suppressants.
2. To reduce dust and noise, Call Gravel operates its crusher in the pit whenever possible and has spray bars on its equipment.
3. Land Quality regulations for small mining operations do not require fencing, but allow the LQD to consider fencing operations on a case by case basis.
4. The county road adjacent to the Call site is a popular thoroughfare for local residents. It

provides access to the Snake River and Palisades Reservoir and it is used by recreational vehicles such as snowmobiles and motorcycles. People walk their animals on the road and children live in the subdivision located nearby.

5. Currently the Call site is not fenced and the ready access to the pit may be an attractive nuisance for children and a hazard to those people who travel in the area.
6. A fence around the operations at the Call site that is designed to be visible year round to people traveling on the county road and that is wildlife friendly would reduce the risk of people inadvertently entering the property.
7. The Call permit was reviewed and approved by the Lincoln County planning and zoning office, and although the Petitioners challenged this finding, their argument was not substantiated.

CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction over the subject matter of and the parties to this proceeding.
2. Wyo. Stat. § 35-11-406(m)(vii) states a permit can be denied if it constitutes a public nuisance or endangers the public health and safety.
3. Call Gravel's permit application meets the requirements of the Environmental Quality Act and the regulations pertinent to small mine operations except that the absence of a fence and warning signs around the Call pit endangers the public safety.

IT IS HEREBY ORDERED THAT:

The Director of the Department of Environmental Quality shall issue Permit TFN 3 1/262 to Call

Gravel with the following conditions.

1. That the active mining area be fenced similar to the WYDOT pit using a four-wire post-style fence with a pole on top of the posts, in accordance with the Game and Fish requirements
2. That warning signs be conspicuously placed on the fence to warn of the mining area.

DATED this 1st day of June, 2002.



Thomas Dunn, Hearing Examiner
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