



May 19, 2016

Wyoming Department of Environmental Quality
Land Quality Division
Herschler Building
200 West 17th Street
Cheyenne, WY 82001

Re: RST Sand and Gravel/Application for Small Mining Permit, Teton County, Wyoming

To Whom It May Concern:

The National Parks Conservation Association (NPCA) is the leading voice of current and future generations of Americans in protecting and enhancing our National Park System, with over a million members and supporters nationwide. Our members care deeply for America's shared natural and cultural heritage that has been preserved by the National Park System and want future generations to inherit an intact system of preserved lands.

Grand Teton National Park (GRTE) is enjoyed by over three-million visitors each year. The park lands that became Grand Teton National Park were a tremendous gift to the American people by John D. Rockefeller, Jr. While the National Park Service (NPS) always bears a legal mandate to "conserve the scenery and the natural and historic objects and the wildlife [in the National Park System] and to provide for the enjoyment of the same in such manner and by such means as will leave unimpaired for the enjoyment of future generations,"¹ the acceptance of land for Grand Teton National Park by NPS came with an additional, unique set of restrictions to protect the landscape, resources and wildlife of this one-of-a-kind Park for future generations.

NPCA has been engaged in discussions about a proposed gravel mine located seven-miles south of Grand Teton National Park and the potential impacts of such a mine on the park's Class I Airshed. We object to the permitting of a gravel mine in this location and urge the Department of Environmental Quality (DEQ) to reject this permit request and hold a public hearing to allow for the issuance of the permit to be contested.

SPECIFIC COMMENTS

¹ National Park Service Organic Act, 16 U.S.C. 1, 2, 3 and 4.

Air Quality Impacts:

Under federal and state law, the DEQ is required to protect Grand Teton National Park's Class I Airshed. Under this Clean Air Act designation, the Wyoming DEQ needs to consider "air quality-related values" such as visibility and night skies issues, as well as air pollution that could impact the health and enjoyment of park visitors. All of these factors must be taken into consideration prior to granting the RST Small Mine permit. Under the Clean Air Act any major source of air pollution requires a Major Source Permit, when there is potential to impact a Class I Airshed.

Although certain elements relevant to the mine were litigated in Wyoming Supreme Court there are other aspects that are relevant to this permit that were not considered and that are applicable under both state and federal law. Given the fact that air quality in Grand Teton is protected under the most protective guidelines as a Class I airshed we feel that the current air quality permit in place does not adequately address or protect the park's air. Combine this with current federal efforts to further regulate regional haze – permitting of more polluting gravel mines that contaminate air with silica, exacerbate emissions due to high volumes of truck traffic and obscure visibility. There is also no analysis provided as to how this small mine permit contributes to the cumulative effects of regional haze pollution from other industrial activities in the state. The duration of this permit allows industrial operations to continue until 2045 posing long-term cumulative impacts to county and park air quality.

It is common for DEQ to approve a large site under a small mine permit – allowing the landowner to move around and develop different pits on the property. This is typically contained to 10 acres at a time with imposed restrictions for reclamation prior to moving to dig a new pit. This is a real concern for this specific site as the existing grandfathered operations have not enforced reclamation; which brings into question other enforcement issues such as air quality violations, hours of operation and water quality impacts.

If granted, this permit will allow industrial activity from June 2016 - 2045 allowing 104,000 tons to be hauled per year. Gravel will be crushed, screened, stockpiled and hauled from the site. It will also allow for the construction of roads and industrial trucks that will be parked within sight of residences within this densely populated area. The landowner will also be constructing roads on the property to access work sites creating additional noise and vibration impacts.

Even though the applicant claims that he does not intend to increase production and has requested 345 acres to enable him to "move around the site," once a permit is granted requests to increase the amount of acreage and haul limits can be done quite simply through administrative processes - leaving very little recourse for the National Park Service, Teton County or the subdivisions being directed impacted to oppose future increases in production and impacts.

Water Quality and Quantity Concerns:

According to DEQ guidelines, a gravel mine is not allowed to affect surrounding properties or to pollute. It's unclear how the impacts of this significant expansion of the Seherr-Thoss gravel

mine (adjacent to four subdivisions) will be eliminated so as to not have adverse effects. This mine is in close proximity to the Wild and Scenic Snake River, Flat Creek and a spider web of irrigation ditches; not to mention the notoriously high ground water situation in South Park.

The DEQ is responsible for enforcement of water quality, particularly the discharge of “dirty water” (silt). Despite this directive to manage water pollution, it is common for the agency to grant a temporary discharge permits at certain times of the year to discharge the dirty pit water into waterways. State law also allow the landowner to store polluted water in ponds being excavated for gravel, despite the fact that these pollutants will come in contact with South Park’s high water table – just 2’ under the surface in many areas and during the spring melt.

This development also could have significant impacts to private property in the South Park area. According to Wyoming water law, a landowner/irrigator is not liable for any flooding of residences due to rising ground water as a result of running a high quantity of water through the ditch (necessary for operations and to fill ponds). Also, insurance (even flood insurance) will not reimburse damages to homes due to rising water table levels. The only time the irrigator has to compensate for damages is if water runs over the top of the ditch and floods property and homes, but even those cases are hard to prove and prosecute. Therefore, residential homeowners will have no recourse if homes are flooded and damaged by high water levels in the ditch that also raise our water tables to within inches of the base flooring in homes. Over the years, many problems have been documented between the landowner and the residential subdivisions surrounding the ranch where requests to limit water quantity in the irrigation ditch has been ignored jeopardizing private property. The current permit proposal does not adequately protect the rights of other property owners, nor provide adequate provision to prevent water pollution and silt running into a Blue Ribbon trout stream and a Wild and Scenic designated river.

DEQ is also responsible for ensuring that dust and particulate matter will not harm surrounding properties or degrade air quality; which direct impacts to the national parks. Given that the general pattern of winds are from south to north – dust and silica will be carried towards Grand Teton National Park – and could affect visibility and pollute the Class I Airshed.

Evasion of County Land Comprehensive Plan and Land Use Development Regulations:

The landowner proposes to construct ponds within the gravel mine development area and in the permit admits that these ponds are being constructed as amenity ponds to increase the future value of the property. All the while, this work is being allowed under the guise of a gravel mine permit to evade the county permitting process and oversight for pond construction and will be done under minimal environmental regulations. This sets a harmful precedent as a backdoor approach on the part of developers to avoid county regulations by wrongly using the DEQ gravel mine permit process and circumvents the purposes and restrictions of the Teton County Comprehensive Land Use Plan and Land Development Regulations.

Furthermore, soil studies have clearly shown that there is NO GRAVEL in the areas proposed as gravel pits/amenity ponds. Why would DEQ allow gravel excavation in areas where no gravel exists? These studies indicate that the gravel vein is opposite side of the property from where pit/pond excavation is proposed.

Human Health and Safety:

Although the DEQ finally issued an air quality permit based on existing and limited use for gravel mining this does little to address future impacts associated with expanding the use from 15 to 345 acres. One can safely assume that future impacts will be much higher. Air pollution from gravel mines has been linked to silicosis, lung cancer and a litany of other serious health conditions linked to “fugitive particulate matter.”

According to the permit application, “Ambient standards are in place to protect public health and the health of sensitive populations such as asthmatics, children and the elderly,” yet there is no modeling required by DEQ for gravel mines for ambient air quality. The closest residence to his proposed pit is .25 miles. The Morning Star Assisted Living Center just down the road and houses many senior citizens who are breathing impaired and sensitive to harmful air pollutants. In addition to the assisted living facility, Rafter J houses a county daycare for children under the age of five and the Teton County School Complex is just one mile from the proposed gravel pit.

Other Potential Impacts:

- Soil disturbance and spread of invasive weeds
- Significant increase of truck traffic and emissions on county roads and past neighborhoods
- Unacceptable noise impacts adjacent to residential neighborhoods
- Disruption of wildlife use and migrations through this important north/south corridor

SUMMARY

NPCA encourages Wyoming DEQ to deny this Small Mine Permit and to hold a contested hearing. NPCA urges that DEQ require the applicant to come forward with a significantly-improved environmentally solution that adequately addresses air and water quality threats and preserves Grand Teton National Park’s air.

Thank you for your consideration.

Sincerely,



Sharon Mader
Grand Teton Program Manager