

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

NOV 18 1986

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

In The Matter Of Objections
To The Application Of A
Small Mining Permit By
Peter A. Hansen
Permit No. TFN 2 6/20

PROTEST IN OPPOSITION TO
A SMALL MINING PERMIT

COMES NOW Protestants, Kathleen Ramee, W.F. Pabst, Jr., John and Nancy Love, Chuck and Maria Cantonwine, William and Martelia Curry, Connie Braz, David and Penelope Ogle, Robert and Patricia Refvem, Greg and Peggy Prugh, Robert and Emily Betts, James Charleston and Anne Betts Charleston, Tim Mayo and Rosie Bucciarelli Mayo, Dr. Albert and Kathryn Metz, Rohn and Ondrea McKee, Barbara Rohwer, Robert B. Betts, Jr., Robert and Dianne Kirk, Andrew and Wynne Gensey, Dorothy Brooks Betts, Clyde Sissman, Jr., Norman B. Roland, M.D., Richard D. Huseeth, Richard W. Cree, Harry Wm. Weisbrod, Robert A. and Lisbeth Esperti, and Robert E. Hansen, by and through counsel, and for their protest in opposition to the granting of a Small Mining Permit to Peter A. Hansen, state and allege as follows:

Protestants all live or own property in the immediate vicinity of the Hansen gravel pit. Protestants addresses are as follows: Kathleen Ramee, 6455 Spring Gulch Road, Jackson, Wyoming 83001; William F. Pabst, Jr., P.O. Box 1937, Jackson, Wyoming 83001; John and Nancy Love, P.O. Box 148, Moose, Wyoming 83012; Chuck and Maria Cantonwine, P.O. Box 2818, Jackson, Wyoming 83001; William and Martelia Curry, P.O. Box 222, Moose, Wyoming 83012; Connie Braz, P.O. Box 700, Jackson, Wyoming 83001; David and Penelope Ogle, P.O. Box 2297, Jackson, Wyoming 83001; Robert and Patricia Refvem, P.O. Box 293, Jackson, Wyoming 83001; Greg and Peggy Prugh, P.O. Box 2914, Jackson, Wyoming 83001; Robert and Emily Betts, 12 Beekman Place, New York, New York 10022; James Charleston and Anne Betts Charleston, 17631 Sun Meadows, Dallas, Texas 75252; Tim Mayo and Rosie Bucciarelli Mayo, P.O. Box 2261, Jackson, Wyoming 83001; Dr. Albert and Kathryn Metz, 4011 Crystie Lane, Casper, Wyoming 82601;

Rohn and Ondrea McKee, 5800 N. Spring Gulch Road, Jackson, Wyoming 83001; Barbara Jean Rohwer, R.R. 3, Box 684, Muscatine, IA 52761; Robert Betts, Jr., Star Route, Absaroka Ranch, Dubois, Wyoming 82513; Robert and Diane Kirk, 168 Bardet Road, Woodside, California 94062; Andrew and Wynne Gensey, P.O. Box 1742, Jackson, Wyoming 83001; Dorothy Brooks Betts, 64 East 86 St., #11A, New York, N.Y. 10028; Clyde Sissman, Jr., P.O. Box 973, Jackson, Wyoming 83001; Norman B. Roland, M.D., P.O. Box 2804, Jackson, Wyoming 83001; Richard D. Huseth, 11007 Spicewood Parkway, Austin, Texas, 78750; Richard W. Cree, 5042 Lakehill Court, Dallas, Texas 75220, Harry Wm. Weisbrod, P.O. Box 97, Jackson, Wyoming 83001; Robert A. and Lisbeth Esperti, P.O. Box 3876, Jackson, Wyoming 83001; and Robert E. Hansen, P.O. Box 2499, Jackson, Wyoming 83001.

Peter Hansen, the property owner of the proposed mining area, filed an application for a ten (10) acre exemption permit with the State Land Quality Division in 1982. Permit number 399 ET was subsequently issued.

A second application for an additional ten acre exemption immediately adjacent to the Hansen (10) ten acre site was filed in 1985 by the Burggraf Construction Company. Permit number 604ET was issued to Burggraf Construction Company. The two ten acre gravel pits are, for all practical purposes, one and the same twenty (20) acre operation.

Applicant Peter Hansen has applied for an expansion of the present gravel pit to encompass 50 acres. This mining operation will remove 20,000 tons of gravel products annually for 15 to 20 years. Miscellaneous heavy equipment including loaders, bulldozers, excavators, dump trucks and belly dump trucks will be used in conjunction with the extraction, crushing and hot mix operations.

The current Hansen gravel pit (20 acres) is situated about a mile outside of Grand Teton National Park. The gravel pit is located in an area of spectacular scenery and wildlife.

Protestants are opposed to the issuance of a permit by the Environmental Quality Council for three major reasons: 1) public health and safety, 2) violations of law, and 3) environmental, as more particularly described below.

Protestants are opposed to the issuance of another gravel permit by the Environmental Quality Council because the current gravel pit operations endanger the public health and safety. Expansion of the pit will only increase the problems. Current pit operations endanger the public health and safety by the mammoth number and size of dump trucks which run to and from the gravel pit along portions of the Spring Gulch Road. This particular area of Spring Gulch Road is a county designated "Scenic Route" that is narrow (20 feet in width) and winding. It runs through a residential and recreational area that is heavily populated with bicyclists, joggers, pedestrians and tourists during the very time Applicant's dump trucks and service trucks use the road. In addition, this portion of Spring Gulch Road passes through a golf course and country club area which is used by hundreds of golfers, swimmers, tennis players and the public at large on a daily basis. This past summer there were in excess of 17,000 rounds of golf played. A serious accident is both inevitable and unavoidable should this permit be issued.

Along with the danger to public health and safety, the operation of the gravel pit, particularly the dump trucks, constitutes a public nuisance. A public nuisance is one which violates the law and annoys the public at large. The current and proposed mining operation violates the law in that it has continuously violated Chapter XX, Section 6 of the Department of Environmental Quality's Rules and Regulations pertaining to the operation of other nearby operations (gravel pits) so as to circumvent the general requirements of the Environmental Quality Act which is intended to prevent two ten acre exemption permits from being issued adjacent to one another. It has further violated Chapter X, Section 3 of the Teton County Comprehensive Plan and Implementation Program pertaining to non-conforming uses; this public nuisance further works a substantial annoyance,

injury and inconvenience to the public at large; through the noise, smoke, dust, vibrations and the negative visual impacts all caused by the presence of the gravel pit, the structures (rock crusher and hot batch plant) and the heavy dump truck and support traffic using a narrow winding residential/recreational road.

The Applicant has violated and continues to violate the law in derogation of the law; more specifically Applicant has been and continues to be in violation of Chapter XX, Section 6 of the Department of Environmental Quality's Rules and Regulations which prohibit nearby operations of exempt gravel pits so as to circumvent the general requirements of the Environmental Quality Act. The Burggraf gravel pit, Permit 604 ET, is immediately adjacent to the Hansen pit, Permit 399 ET. The Burggraf and Hansen pits are, for all practical purposes, one and the same pit. Chapter XX, Section 6 of the Department of Environmental Quality's Rules and Regulations prohibits the operations of two exempt gravel pits which are adjacent to one another when the operation is to mine the same materials. Pursuant to § 35-11-406(M)(XV) W.S. 1985, a permit shall be denied where the Applicant has been and continues to be in actual violation of the provisions of the Act. Protestants allege that the Hansen 10 acre pit and the Burggraf 10 acre pit are the same operation such that the Applicant has and continues to be in violation of the Act and should be denied this small mining permit.

The Applicant has also violated Chapter IX Section 3 of the Teton County Land Comprehensive Land Use Plan pertaining to non-conforming uses. Pursuant to § 18-5-202 et seq W.S. 1977 the Board of County Commissioners has the power to establish a comprehensive plan and thus regulate the two gravel pits. The pit operators, including Peter Hansen, have operated in violation of the Comprehensive Plan in that the gravel pit's current use is not a use which was in existence prior to the adoption of the Comprehensive Plan on January 1, 1978 (grandfathered) and thus the Applicant has failed to comply with the permit requirements of the Comprehensive Plan.

Protestants are further opposed to the issuance of a permit by the Environmental Quality Council because the proposed mining operation is detrimental to the natural environment. The Hansen gravel pit is located in an area having some of this Country's most majestic scenery and wildlife habitat which is of State and National significance. Protestants intend to file an application with the Environmental Quality Council requesting that this area be designated a rare or uncommon area having particular wildlife and/or scenic value. The Applicant would be prohibited from mining and generally disrupting this delicate and beautiful area should the council so designate it.

Attached hereto is Protestants witness list, along with the witness's address, phone number and summation of their testimony.

WHEREFORE Protestants will appear by and through their counsel and present testimony and exhibits to show that the Small Mining Permit should not be issued and the Protestants pray for an order denying the issuance of the Permit to Peter A. Hansen, and for such other and further relief as may be just and proper.

DATED this 17th day of November, 1986.

Warren W. Dill
Warren W. Dill
Dill & Hess
Attorney for Protestants
P.O. Box 3394
Jackson, WY 83001
(307) 733-7881

CERTIFICATE OF SERVICE

On the 17th day of November, 1986 I mailed a copy of the foregoing to the following:

Randolph Wood, Director
Dept. of Environmental Quality
122 W. 25th Street
Herschler Building
Cheyenne, WY 82002

Roger Shaffer, Administrator
Land Quality Division
Dept. of Environmental Quality
122 W. 25th Street
Herschler Building
Cheyenne, WY 82002

John Erdmann
Senior Asst. Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002

Steven Shanahan
Senior Asst. Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002

Peter Hansen
P.O. Box 1887
Jackson, WY 83001

R. Michael Mullikin, Esq.
P.O. Box 3345
Jackson, WY 83001

Warren W. Dill
Warren W. Dill

PROTESTANT'S WITNESS LIST

1. Clay James
Grand Teton Lodge Company
P.O. Box 250
Moran, WY 83013
733-2811

Clay James will testify to the daily public use of the golf course, pool and clubhouse facilities and how public health and safety is endangered by heavy truck traffic going to and from the Hansen gravel pit.

2. Robert and Lisbeth Esperti
P.O. Box 3876
Jackson, WY 83001
733-1124

Robert and/or Lisbeth Esperti may testify to the unsafe conditions created by the gravel pit trucks to joggers, pedestrians, and bicyclists.

3. Ondrea McKee
5800 N. Spring Gulch Road
Jackson, WY 83001
733-8758

Ondrea McKee will testify to the safety problems caused by the gravel pit trucks to children using the road.

4. Rosie Bucciarelli Mayo
P.O. Box 2261
Jackson, WY 83001
733-7985

Rosie Bucciarelli Mayo will testify to the truck noises, vibrations, dust, disturbances and unsafe truck operations. She may also testify to the scenic beauty of the area.

5. Connie Braz
P.O. Box 700
Jackson, WY 83001
733-8244

Connie Braz may testify to the noise, vibrations, dust and other disturbances created by the gravel pit and the degradation to the scenic areas caused by the gravel pit.

6. Robert and Emily Betts
12 Beckman Place
New York, New York 10022
(212) 753-5004

Robert and/or Emily Betts may testify to the smoke and haze coming from the gravel pit, the degradation of a scenic qualities and the scenic value of the area.

7. Dr. Albert V. and Kathryn Metz
4011 Crystie Lane
Casper, WY 82601
268-2542

Albert and/or Kathryn Metz may testify to the vibrations, noise, dust and other disturbances created by the gravel pit.

8. Dan Cowee
County Administrator of Planning Services
P.O. Box 1727
Jackson, WY 83001
733-3959

Dan Cowee will testify to the gravel pit's violations of the Teton County Comprehensive Plan, county attempts to regulate the gravel pit, and criminal action being taken against Burggraf Construction. Dan Cowee will also testify to the scenic characteristics of the area and the character of the pit.

9. Bill Hughes
1275 Huff Lane
Jackson, WY 83001
733-6505

Bill Hughes will present evidence regarding the scenic value of the area.

10. Melanie Hess
P.O. Box 3320
Jackson, WY 83001
733-1306

Melanie Hess may present evidence regarding the scenic value of the area.

11. Gene Hoffman
P.O. Box 3729
Jackson, WY 83001
733-3436

Gene Hoffman will present evidence of the problems caused by the gravel operation.

12. Holly Dill
Director of Jackson Hole Alliance
For Responsible Planning
P.O. Box 2728
Jackson, Wyoming 83001
733-9417

Holly Dill may testify to the value of this scenic area, the impropriety of a gravel pit in a residential neighborhood, and the effect of the gravel pit operation on a designated scenic route.

13. Roger Millward
Teton County Sheriff
P.O. Box 1727
Jackson, WY 83001
733-4052

Roger Millward will testify to the dangers created by the gravel pit trucks using Spring Gulch Road and law enforcement problems resulting therefrom.

14. Robert LaLonde
County Commissioner
P.O. Box 1727
Jackson, Wyoming 83001

Robert LaLonde may testify to the danger and nuisance caused by the truck operations on Spring Gulch Road.

15. Leslie Peterson
Teton County Commissioner
P.O. Box 1727
Jackson, Wyoming 83001

Leslie Peterson may testify to the county attempts to regulate the gravel pit, violations of the law and the criminal action being taken.

16. Bland Hoke
Teton County Commissioner
P.O. Box 1727
Jackson, Wyoming 83001
733-4430

Bland Hoke may testify to the county attempts to regulate the gravel pit, violations of the law and the criminal action being taken.

17. Peter A. Hansen
P.O. Box 1887
Jackson, Wyoming 83001

Peter A. Hansen may be called as an adverse witness to testify to the gravel pit operations.

18. Steve Burggraf
P.O. Box 1365
Jackson, Wyoming 83001

Steve Burggraf may be called as an adverse witness to testify to the gravel pit operations.

19. Protestants reserve the right to call any witnesses listed by Applicant.