



STATE OF  
COLORADO

Eschberger - DNR, Amy <amy.eschberger@state.co.us>

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## Objection Letter for permit M2016010

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**Nancy Reed** <ncr.turkeycreek@gmail.com>  
To: amy.eschberger@state.co.us

Sat, Jul 2, 2016 at 1:05 PM

Amy:

As one of the property owners within Eagles Nest, I have decided to submit an additional objection letter with information I have learned since my last letters were filed in April.

I am attaching the letter to this email, but am also placing the letter in the US Mail.

Nancy Reed



**Objection letter - Easement Road.pdf**  
2590K

2 July 2016

Colorado Division of Reclamation, Mining and Safety  
1313 Sherman Street, Room 215  
Denver, CO 80203

Ms. Amy Eschberger:

Subject: Letter of Objection related to Mining Permit M2016010

As a homeowner within the Eagles Nest subdivision, I am writing yet another letter of objection to the proposed quarry. With information gathered over the past few months, I am more concerned than ever that quarry operations will block or damage our ingress/egress easement road:

- We have been told by Transit Mix that our road WILL BE CLOSED during blasting operations, once regular quarry operations commence.
- If Transit Mix uses blasting to build the new quarry road, we believe that our road WILL BE CLOSED, at times, because at least portions of that new road are in very close proximity to our existing road.
- We believe that our road MAY BE BLOCKED or DAMAGED by fly rock from blasting.
- We believe that our road MAY BE BLOCKED or DAMAGED by landslides within the quarry pits
- We believe that our road MAY BE BLOCKED or DAMAGED by rockslides caused by vibrations from blasting or heavy vehicle traffic within the quarry pits and along the quarry haul roads.
- We believe that our road MAY BE BLOCKED or DAMAGED by more frequent and severe flooding caused by the permanent change in vegetation cover within the quarry area.

In 1968, the El Paso County District Court declared that Little Turkey Creek Road is a private road to provide the only means of ingress and egress to the properties within the Eagles Nest subdivision, including our property. That court decree was included with the 18 April letter of objection from Carrie Bernstein. Our property deed specifically includes the private road easement and demonstrates that the private road easement runs with the land. Our property can ONLY be accessed by way of Little Turkey Creek Road, which runs from Highway 115 right through the middle of the proposed quarry operations area.

The 30 June meeting included an extensive discussion about what property owners would have to do to get compensated for damage to property caused by quarry operations. The discussion focused on damage to wells, but I am assuming that a similar process would be involved for other man-made structures, including our road and culverts. Those discussions confirmed that we, as one of the owners of the easement, will bear the increased risk associated with future blockage and damage to our easement road as well as the increased financial burden of proving that quarry operations did, indeed, cause the problem.

I was also deeply dismayed as we discussed the enforcement process at the 30 June meeting, particularly the amount of time it takes to investigate whether the operator caused the damage and for the mining board to determine what actions, if any, the operator will be required to take to rectify the problem. We were told at the meeting that the enforcement process may take weeks or even months. In reviewing enforcement actions for other permits related to water damage, I saw at least one permit where the enforcement and subsequent process to remedy the problem took YEARS. We may be forced to leave our road in an unrepaired, or even a blocked, condition for at least some period of time so that the investigators could see what damage had occurred. Furthermore, it was unclear what obligation the

operator would have to remove the blockage and/or repair the damage during the period that this lengthy investigation and enforcement process is underway. During an extended period of time, our road might be obstructed or unsafe to use.

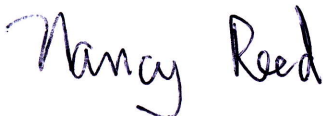
I understand from reviewing mining law that Transit Mix will be required to get structure agreements from the owners of the easement for the portion of the road and the culverts that lie within 200 feet of the affected lands. In the future, Transit Mix would be required to compensate us for damage to the road if we can prove that their operations caused the damage. However, being forced to prove that the operator is responsible for the damage will place a huge financial burden on the easement owners for legal expenses and, possibly, technical experts. Furthermore, a portion of the easement road within Section 16 downstream of the quarry is outside of that 200 foot area and would not be covered by those structure agreements. That portion of the road is particularly vulnerable to flood damage because the canyon narrows dramatically below the proposed quarry operations area and some portions of the road run just a few feet above the creek bed.

Since my previous objection letters, I have also talked with the civil engineer who designed the culverts that the easement owners installed in the four stream crossings within Section 16. I understand from that conversation that the vegetation cover within the quarry operations area will be permanently altered by the quarry operations and subsequent reclamation. During the period that the quarry pits have bare rock exposed, the amount of run-off from storms will be significantly increased. Water management structures may somewhat mitigate the run-off, but MAY also fail if they are inadequately designed. Furthermore, those water management structures will be removed during reclamation. Vegetation proposed for reclamation will be less absorbent than current vegetation, as suggested by the vegetation curve numbers that Transit Mix used for its design of the water management structures. As a result, the expected amount of flood run-off will be increased within the quarry operations area even after the area is reclaimed, which will therefore increase the risk of blockage or damage to our easement road FOREVER.

Transit Mix may agree to assume responsibility for repairing damage to the road and culverts during the life of the quarry. However, Transit Mix is only leasing the land and will therefore be out of the picture after the quarry closes. At that point, who will assume responsibility for repairing flood damage to the road caused by the permanent alteration of the quarry area? The land owner? The easement owners have had an ongoing battle with the owners of Hitch Rack Ranch for the past forty years as we have attempted to maintain and improve our easement road. Blockage and maintenance of the easement road could become an absolute nightmare for the easement owners, not just during the proposed 55 year life of the mine, but FOREVER.

Granting the application would clearly violate the express language in the 1968 court decree and long standing Colorado easement law. If the application is approved, we and other property owners within the Eagles Nest subdivision will almost certainly proceed with legal action

Sincerely,



Nancy Reed  
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Colorado Springs, CO 80926  
Phone: 719-445-2030