



STATE OF
COLORADO

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

Objection Letter M2017-049

1 message

Hwy115 CAC <hwy115cac@gmail.com>
To: amy.eschberger@state.co.us

Thu, Dec 7, 2017 at 11:59 AM

Ms. Eschberger,

Attached is the Highway 115 Citizens Advisory Committee's letter of Objection to Transit Mix's, Hitch Rack Ranch Quarry application, M2017-049.

Thank you-
Hwy115 CAC



CAC objection ltr 1 Dec 17.pdf
1470K

December 1st, 2017

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

Ms. Eschberger,

The Highway 115 Citizens Advisory Committee objects to Transit Mix Concrete Co.'s (TM) application (M2017-049) to establish a quarry on Hitch Rack Ranch.

The committee is comprised of property owners along Southwest Highway 115, an area that encompasses approximately 600 households and 1,700 residents, including Turkey Canyon Ranch (TCR), the Pinons of TCR, the Highlands of TCR, the Ridgewood Estates, Red Rock Valley Estates, the Eagle's Nest development, property owners along Little Turkey Creek Road and within the former Bauer's Ranch.

The Mine Land Reclamation Board (MLRB) denied TM's initial application (M2016-010) in its written order dated December 20th, 2016. The current application, M2017-049, presents the same issues that caused the MLRB to deny the initial application. M2017-049 violates the dominant estate holder's easement rights, jeopardizes water resources and destroys the area's natural environment.

The application fails to demonstrate that TM has a legal right to enter and initiate mining operations. Little Turkey Creek Road is an ingress/egress easement used by property owners in the Eagles Nest development to access their homes and properties. The forced closure of Little Turkey Creek Road during blasting operations will violate the dominant estate holder's (property owners in the Eagles Nest development) easement rights. The oral testimony provided by Mr. Scott Schultz (counsel for CDRMS) on Oct. 26th, 2016 during the MLRB Hearing and the written MLRB order dated Dec. 20th, 2016 clearly indicates that neither CDRMS nor the MLRB has the jurisdictional authority to resolve the legal dispute. To date, this issue has not been brought before the El Paso District Court and, therefore, TM has still not met its burden to demonstrate it has obtained a legal right to enter and initiate mining operations. Furthermore, Little Turkey Creek Road is a man made structure that lies within 200 feet of affected lands, but the application fails to prove that mining operations shall not damage the road.

Despite TM's repeated assertions in the application that the hydrological balance will be minimized, research by other subject matter experts indicates otherwise. The removal of massive amounts of granite is most likely to disrupt the recharge of the fractured rock wells that property owners depend upon. Even minimal disturbance of the hydrological balance could prove catastrophic, and permanent, for well owners both upstream and downstream. There is no alternative source of water. Ultimately, the burden and expense to prove that TM's actions damaged a well will be borne by the well owner. Addi-

tionally, excavation and the removal of vegetation in the proposed quarry area will exacerbate flash flooding. Potential fuel spills, the use of herbicides to clear noxious weeds and other contaminate runoff may impact wells located downstream.

The application fails to protect wildlife. Loss of habitat poses the greatest threat to any species and the reclamation plan proposed in the application generally ignores the destruction of habitat and its consequences; especially, the potential for irreparable damage to Little Turkey Creek, one of the few perennial streams and riparian habitats along this section of the Front Range. Both governmental and private organizations have identified the unique conservation and environmental value of the area. The proposed quarry area is a part of the The Nature Conservancy of Colorado's Aiken Canyon Potential Conservation Area and identified by the Colorado Natural Heritage Program as a site of very high significance. The area is mapped by the US Fish and Wildlife Service as Critical Habitat for the Mexican Spotted Owl, a federal and state listed threatened species. Finally, Colorado Parks and Wildlife identifies the area as a major wildlife migration corridor.

Due to the significant number of objectors in the area that will be negatively affected by the proposed quarry, the committee requests that both the Pre-hearing Conference and MLRB Hearing be conducted in Colorado Springs.

Regards,



G.K. McCowen
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