Objection letter - M2017049

1 message

Kris and Anita McCowen <gkmccowen@gmail.com>   Tue, Dec 19, 2017 at 10:14 AM
To: amy.eschberger@state.co.us

Ms. Eschberger,
My objection letter is attached.

GK McCowen
3070 Little Turkey Creek Road
Colorado Springs, CO 80926
(719) 352-1519

📄 **GK MCCOWEN Objection.pdf**
1257K

December 18th, 2017

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

Dear Ms. Eschberger,

As a property owner and resident in the immediate area, I object to Transit Mix Concrete Co.'s (TM) application M2017-049 to establish a quarry on Hitch Rack Ranch.

The Mine Land Reclamation Board's (MLRB) *Findings of Fact, Conclusions of Law and Order* dated the 20th of December, 2016 denied TM's initial application, M2016010, to establish a quarry on Hitch Rack Ranch. The current application presents the same issues that caused the MLRB to deny the initial application.

My well and the wells of my neighbors will be jeopardized. TM has not demonstrated that the hydrologic balance and the quality and quantity of ground water will be minimized. Research by subject matter experts indicates that the removal of massive amounts of granite will most likely disrupt the recharge of the fractured rock wells that property owners depend upon. Even minimal disturbance of the hydrologic balance could prove catastrophic, and permanent, to my well and to wells both upstream and downstream of the quarry. There is no alternative source of water. TM's installation of monitoring wells, the offer to provide cisterns and drill replacement wells (but only if conclusively proven that TM caused the problem) is evidence that there exists great potential that the hydrologic balance and the quality and quantity of ground water will NOT be minimized. Ultimately, my neighbors and I will bear the burden and expense to prove that TM's mining operation damaged our wells. Additionally, 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 does not "conserve natural resources" or "aid in the protection of aquatic resources." The quarry operation will not protect wildlife habitat or the riparian area around Little Turkey Creek; rather, it will destroy it. The area is an environmental jewel. Colorado Parks and Wildlife designated the Little Turkey Creek area as a major big game migration corridor; the U.S. Fish and Wildlife Service designated the area as critical habitat for the Mexican Spotted Owl, and the Nature Conservancy considers the Aiken Canyon Preserve, located adjacent to Hitch Rack Ranch "one of the last high-quality examples of the southern Front Range foothills ecosystem."

The application fails to demonstrate that TM has a legal right to enter and initiate mining operations. Little Turkey Creek Road is the sole ingress/egress easement used by property owners in the Eagles Nest development to access their homes and properties. TM has no agreement with these dominant estate owners to obstruct the road. The forced closure of Little Turkey Creek Road during blasting operations will violate the dominant estate owner's 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, TM has not brought this issue before the El Paso District Court for a ruling as was recommended by the MLRB; therefore, the company has not met its burden to demonstrate it has obtained a legal right to enter and initiate mining operations.

Finally, the application is incomplete as there are many errors and inconsistencies throughout.

Respectfully,

GK McCowen
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