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## Transit Mix objection

1 message

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**Martin Harper** <martin@harpercpa.com>  
To: amy.eschberger@state.co.us

Wed, Dec 20, 2017 at 3:15 PM

Objection letter a <<...>> application 20170049

***Martin Harper, PC***

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

December 20, 2017

Re: Objection to Transit Mix 112c Reclamation Permit Application M-2017-049, additional information

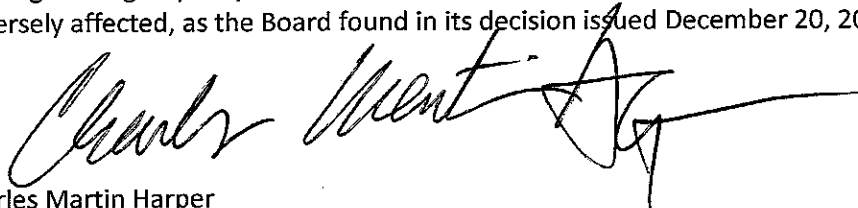
Dear Amy:

Exactly one year ago today the Mined Land Reclamation Board denied Transit Mix application M-2006-010. Transit Mix initially appealed the ruling; they subsequently withdrew the appeal and filed an action for Judicial Review of the decision, which is still in process. On October 5, 2017 Transit Mix filed "substitute" application M-2017-049 which contains over 1,900 pages.

In its original decision, the board found that the original application failed to comply with section 34-32.5-115(4)(g) regarding water, section 34-32.5-115(4)(h) regarding wildlife, and failed to show legal right to entry regarding the dominant easement on Little Turkey Creek Road. In paragraph 43 of their order denying the permit (regarding legal entry) the Board stated that the "Board does not have legal jurisdiction to resolve this legal dispute. Without resolution of this issue, however, *Applicant cannot meet its burden to demonstrate right of legal entry to initiate a mining operation*" (emphasis added). Until this issue is decided, in accordance with the Board's order, the Division cannot recommend approval of the substitute application. In fact, a permit cannot be issued.

The fact that Transit Mix has been allowed to waste the time and money of the state and the objectors with appeals, legal proceedings, and finally a new 1900 page application, when they have been told by the board that the application cannot be approved until the right to entry issue is resolved, is atrocious. It appears that their strategy is to wear us all down and run us out of money. I would be interested to know how many hours Division personnel have spent processing this new application, which should not have been accepted until Transit Mix demonstrates right of legal entry as ordered by the Board. I know the objectors have spent tens of thousands of dollars.

The two other issues, wildlife and water, still have not been adequately addressed. Even though the area to be quarried has decreased in the substitute application, please note that the total permitted area has increased. Transit Mix will certainly ask for an expansion in the future, so the Division should consider all issues based on the original larger quarry area north and south of Little Turkey Creek Road. Wildlife and water will certainly be adversely affected, as the Board found in its decision issued December 20, 2016.



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