



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

April 12, 2019

Steve O'Brian
Environment, Inc.
7985 Vance Dr. #205A
Arvada, Colorado 80003

**Re: AFS – Bennett Pit, M-2001-038
Amendment No. 1 Application (AM01), Adequacy Review No. 1**

Dear Mr. O'Brian,

The Colorado Division of Reclamation, Mining and Safety (DRMS or Division) received the above referenced amendment application on February 13, 2019. The application was deemed complete and filed for review on February 21, 2019. The Division has received objections to the application and in accordance with Rule 1.4.9 has scheduled a hearing before the Mined Land Reclamation Board (MLRB or Board) during the May 22 and 23, 2019 MLRB meeting for consideration of the application. The Division is required to hold a Pre-hearing Conference at least 10 days prior to the MLRB hearing. Given this, the Division is tentatively planning on holding a prehearing conference during the week of May 6th, 2019. The location and time of the Pre-hearing conference will be provided to you as soon as possible. The Division is required to issue a recommendation to approve, approve with conditions or to deny the application to the Board three working days prior to the Pre-hearing conference. The following items will need to be addressed to the Division's satisfaction prior to the date the Division issues its recommendation to the Board:

Rule 6.4.4, Exhibit D – Mining Plan

1. Page 6 of the mining plan indicates groundwater elevation under the southern part of the mine is approximately 5394 feet. Based on the Exhibit C Existing Conditions Map, the southern end of the permit area has a ground elevation ranging from 5350 feet to 5325 feet. Please clarify the depth of groundwater and the two foot maximum depth of excavation?
2. Page 6 of the mining plan indicates the top of the shale on the north side of the property may be higher than 5394 feet. According to the Exhibit C, Existing Conditions Map, the ground elevation on the north side of the permit boundary is 5340 feet. Please clarify the depth of the shale layer on the north side of the permit area?
3. Page 6 of the mining plan indicates all stormwater will be collected on the site and treated before



being released if it contacts the disturbed area. Please describe how the water will be treated? If storm water collection basins will be used or another type of impoundment, please depict these features on the Exhibit C-1 Mining Plan Map.

4. Please describe the nature of the stratum immediately beneath the material to be mined.
5. It does not appear, AFS is proposing to use explosives at the site? Please confirm. If so, please addressed the requirements of Rule 6.4.3(i).
6. Please clarify the type of processing that occurs at the site.

Rule 6.4.5, Exhibit F – Reclamation Plan

7. Albert Frei and Sons (AFS) is proposing to continue to import inert fill into the site for use in backfilling the pit slopes and mine floor as stated on Page 6 of the reclamation plan as originally approved with Technical Revision No. 1 (TR01). TR01 specified a phased approach to backfilling and estimated the void volume to be filled. It does not appear mining and reclamation will be conducted in a phased approach based on the revised mining and reclamation plan. Please describe any revision to the timing and duration of the inert fill operation.
8. Please approximate the volume of inert fill to be used at the site given the revised mining and reclamation plan?
9. The current inert fill plan indicates the permanent slopes will be no steeper than a 3H:1V ratio. With AM01, the applicant is proposing final reclamation slopes of 2H:1V ratio. Please provide a general engineering plan stating how the inert material will be placed and stabilized in a manner to avoid unacceptable settling and voids.
10. Page 10 and 11 of the reclamation plan state that a U.S. Army Corp of Engineers Permit will be obtained if wetlands or waters of the U.S. will be affected during the mining operation. Exhibit G and Exhibit M state that there are not wetlands or waters of the U.S. at the site. While on the pre-operation inspection, Ben Frei indicated a wetlands evaluation may be conducted at the site. If wetlands are identified within the permit area, please update the Exhibit C map to depict their location. If wetlands are identified, within the proposed mine area, please develop a protection plan for these wetlands until the required U.S. Army Corp Permits are in place if necessary.

Rule 6.4.7, Exhibit G – Water Information

11. Page 14 of the Exhibit G states that off-site runoff is/or will be diverted around the disturbed area. Please revise the Exhibit C-1 Map to depict the diversion structures used to accomplish this. Please describe and provide a cross section of the diversion structures.

12. Page 14 of Exhibit G implies the groundwater level is at 5094 feet. As discussed above, please clarify the depth of groundwater.
13. The applicant states storm water from the disturbed area will be retained on site. Based on the Exhibit C and F Maps, it appears the site will positively drain to the southeast during mining of the northern three quarters of the site. Please submit a brief statement or plan showing how water from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution offsite at the southeast end where surface run-off is likely to flow, both during and after the operation.
14. Given the nature of the mining operation described, the operator does not propose to conduct any dewatering? Please confirm.

Rule 6.4.8, Exhibit H – Wildlife Information

15. The wildlife exhibit included the original wildlife statement from the 2001 permitting process. Since that time it is likely the threatened and endangered species list has been updated. Please evaluate the presence of any current threatened or endangered species at the site.
16. The reclamation plan indicates that temporary displacement of wildlife will result from the mining operation. In accordance with Rule 3.1.8, all aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., elk calving, migration routes, peregrine falcon nesting, grouse strutting grounds). Please discuss the measures the operator will use to protect wildlife during the mining and reclamation operation.

Rule 6.4.12, Exhibit L – Reclamation Costs

17. The cost estimate submitted with the application covers 30 acres of affected land. Based on the proposed mining plan, no phasing of the mining is planned and page 4 indicates a maximum disturbance scenario will be used to allow flexibility for the mine to be developed from both ends of the deposit. If the applicant would like to use a phased 30-acre bonding approach, please revise the mining plan to accommodate this and define the phases accordingly, or provide an estimate for the maximum disturbance scenario.

Rule 6.4.19, Exhibit S – Permanent Man-made Structures

18. For each of the permanent man-made structures within 200 feet of the affected land, please either provide:
 - a. provide a notarized agreement between the applicant and the person(s) having an

interest in the structure, that the applicant is to provide compensation for any damage to the structure; or

- b. where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or.
- c. where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

Rule 1.6.2 –Notice Requirements

- 19. Please submit the proof of publication of the required notice in accordance with Rule 1.6.2(1)(d) and Rule 1.6.5.
- 20. Please submit documentation a copy of the notice required in Rule 1.6.2(1)(d) was mailed or personally served immediately after the first publication of the notice to all Owners of Record of the surface and mineral rights of the affected land; and the Owners of Record of all land surface within 200 feet of the boundary of the affected land.

Agency Comments

The Division has received comments from the Colorado Division of Water Resources and the US Army Corp of Engineers. Enclosed are their comment letters for your review.

Public Objections

- 21. The Division has received public objections from the following people:
 - a. Victoria Katchen and Mark Faber
 - b. Alethea Copeland
 - c. Jennifer Curtis and Kimberly Chainhalt
 - d. Kelsey Magnuson

Their objection letters are attached for your review. Concerns related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to DRMS' jurisdiction. However, please address any jurisdictional issues raised by the objectors.

This concludes the Division's review of the AM01 application for the AFS-Bennett Pit. The Division is required to issue a recommendation to the MLRB three working days prior to the pre-hearing conference. Given this, the Division requests these items be addressed by April 30th, 2019. If you need additional time to address

April 12, 2019

these issues, please request to an extension to reschedule the MLRB hearing for a later date. If you have any questions please feel free to contact me at jared.ebert@state.co.us or at (303)-866-3567 ext. 8120.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert
Environmental Protection Specialist III

Enclosure: 1.) *Colorado Division of Water Resources correspondence, dated March 18, 2019*
 2.) *Department of the Army Corps of Engineers correspondence, dated March 18, 2019*
 3.) *Objection Letters received within the public comment period.*

Ec: Ben Frei, Albert Frei and Sons, Inc. BFrei@albertfreiandsons.com



STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

Bennett Pit, Permit No. M-2001-038-AM01

Comaniciu - DNR, Ioana <ioana.comaniciu@state.co.us>

Mon, Mar 18, 2019 at 5:26 PM

To: Jared Ebert - DNR <jared.ebert@state.co.us>

Cc: "Vander Horst, Keith" <keith.vanderhorst@state.co.us>, "Grimes, Chris" <chris.grimes@state.co.us>

Hi Jared,

Please see attached comment letter on the proposed amendment to Bennett Pit, Permit No. M-2001-038.

Sincerely,

Ioana Comaniciu, P.E.
Water Resources Engineer



COLORADO

Division of Water Resources

Department of Natural Resources

P 303-866-3581 x 8246

1313 Sherman St., Suite 818, Denver, CO 80203

ioana.comaniciu@state.co.us | www.water.state.co.us



M_2001_038 Bennett Pit.pdf

92K

Response to Reclamation Permit Amendment Application Consideration

DATE: March 18, 2019

TO: Jared L. Ebert, Environmental Protection Specialist (jared.ebert@state.co.us)

CC: Keith Vander Horst, P.E., Chief of Water Supply - Inside Basins
Chris Grimes Ground Water Commission Staff

FROM: Ioana Comaniciu, P.E.

RE: Bennett Pit, Permit No. M-2001-038-AM01
Operator: Albert Frei and Sons, Inc.
Contact: Steve O'Brian, Environment, Inc., (303) 423-7297
Sec. 2, Twp. 3S, Rng. 63W, 6th P.M., Adams County
North Kiowa Bijou Designated Ground Water Management District and Kiowa Bijou
Designated Ground Water Basin

CONDITIONS FOR APPROVAL

- ☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations. The Applicant must ensure that mining will stay at least 2 feet above the ground water table throughout the proposed mining operations.
- ☒ The applicant has indicated plans to use water for dust control, washing, screening and crushing material purposes at the permit site in the amount of 3.0 acre-feet/year. The water needs for these uses will be obtained for a source approved for that use. The applicant must identify the specific water rights that will provide the water for dust control, washing, screening and crushing material purposes at the permit site, and provide evidence that those rights may be used for the proposed uses.
- ☒ The applicant has indicated that once the area has been mined an evaluation will be done to determine if mining below the water is feasible. If it is determined that mining is feasible the applicant will then provide a technical revision and the area is proposed to be lined. We note that unless the area is lined within the State Engineer's allowable leakage rates as referenced in the August 1999 State Engineer Guidelines for Lining Criteria for Gravel Pits (1999 SEO Guidelines), the Applicant will need approval of a replacement plan to make replacement from evaporation from the exposed ground water.
- ☒ If storm water runoff is intercepted by this operation and is not diverted or captured in priority, it must be released to the stream system within 72 hours. This may require a discharge permit from CDPHE-WQCD. Otherwise, the operator will need a Ground Water Commission approved replacement plan to replace evaporation losses.

COMMENTS: The purpose of this amendment is to add 60.13 acres to the existing 47.75 permitted acres. The amended permit boundary will encompass a total of 107.88 acres. The expanded area to be mined is currently used for agricultural purposes. The mining plan calls for dry mining operation. The Kiowa Creek, an ephemeral drainage, is the closest surface water drainage to the mine. The applicant indicated that mining will not take place in the primary erosion channels of the Kiowa Creek. The plan is to maintain a 100 foot setback from the north bank of the Kiowa Creek Channel.



The primary commodities to be mined at the site is sand and gravel material as the area to be mined consists of alluvial deposits that average 5 to 45 feet deep across the property. The applicant claims that, based its review of well drilling logs for the permitted area indicated that ground water table varies in depth from 9 feet near the east side to an average of 50 feet along the west side of the permitted area. As mentioned above under the "Conditions of Approval" section the Applicant must ensure that mining will stay at least 2 feet above the ground water table throughout the proposed mining operation.

The applicant may contact the State Engineer's Office with any questions.



STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

Fwd: Regarding an amendment to permit application for AFS-Bennett Pit

Papamihail - DNR, Eleni <eleni.papamihail@state.co.us>

Mon, Apr 1, 2019 at 10:01 AM

To: Jared Ebert - DNR <jared.ebert@state.co.us>

Cc: "Mojar - DNR, Camille" <camille.mojar@state.co.us>

Hello Jared

The following message was sent to our general website from Victoria Katchen in Adams county.

Thank you

Eleni

----- Forwarded message -----

From: **Victoria Katchen** <vkatchen@yahoo.com>

Date: Sun, Mar 31, 2019 at 3:56 PM

Subject: Regarding an amendment to permit application for AFS-Bennett Pit

To: DMG_web@state.co.us <DMG_web@state.co.us>

Victoria Katchen / Mark Faber

7230 Provost Rd
Bennett, Co 80102

April 1, 2019

RE: Regarding an amendment to permit application for AFS-Bennett Pit

Dear Council Member,

I am a concern neighbor of Bennett Sand and Gravel, I am writing this letter to protest the amendment to permit application for Albert Frei and Sons, Inc. AFS- Bennett Pit M.L.R.B. Permit #M-2001-038

Kindly consider your decision concerning with granting the amended permit application. I am concerned about the amendment to permit application being filed by Albert Frei and Sons, Inc AFS-Bennett Pit Permit #M2001-038

I am concerned about the pit causing damage to the environment and drying up the area's water resources. Introduction of contaminants (primarily sediment) to our wells. Also the alteration of the volume of the baseline flow. It also will impact the air quality. I feel that the expansion of this pit will affect the quality of life of our community!

The truck traffic has already increased since the purchase of pit by Frei and Sons by more than 50%. 72nd Ave is not maintained by Pit and Adams Co. is not willing to help because of conflict between them and AFS. The pit should have to put roadbase down or pave road. Most of the trucks operating with license plates from Oklahoma plates, so are Not paying Colorado road taxes.

Thank you for taking the time to read this letter.

I can be reached at 303-489-5596 or at vkatchen@yahoo.com. or Mark Faber 303-489-4330

Sincerely,
Victoria Katchen
Mark Faber

3 attachments



IMG_4315.JPG
3444K



IMG_4316.JPG
2964K



IMG_4319.JPG
3757K

Mark Faber
Victoria Katchen
7230 Provost Rd
Bennett, Co 80102

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

RECEIVED

APR 10 2019

DIVISION OF RECLAMATION,
MINING & SAFETY-MINERALS
~~FEE REPORT MAP~~

April 6, 2019

Regarding an amendment to permit application for AFS-Bennett Pit

Dear Colorado Division of Reclamation, Mining and Safety,

We are concern neighbors of Bennett Sand and Gravel, I am writing this letter to protest the amendment to permit application for Albert Frei and Sons, Inc. AFS- Bennett Pit M.L.R.B. Permit #M-2001-038

Kindly consider your decision with granting the amended permit application. We are very concerned about the amendment to permit application being filed by Albert Frei and Sons, Inc AFS-Bennett Pit Permit #M2001-038

We feel the pit will cause damage to the environment and dry up the area's water resources. Also will introduce contaminants (primarily sediment) to our wells and the alteration of the volume of the baseline flow. We are also concerned about our water. We are on well water and have concerns about our water quality and if our well will be deep enough if the gravel mining uses a lot of water and drops the level of the aquifer.

Then there are concerns of the air quality and noise. Apparently they can operate from 6am to 10pm and this doesn't even include the already heavy semi truck traffic on Provost Road and 72nd Ave. The truck traffic has already increased since the purchase of pit by Frei and Sons by more than 50%. 72nd Ave is not maintained by Pit and Adams Co. is not willing to help because of conflict between them and AFS. The pit should have to put roadbase down or pave the road. Most of the trucks hauling sand out of pit are operating with license plates from Oklahoma. Therefore are Not paying Colorado road taxes. We feel that the expansion of this pit will affect the quality of life of our community!

This information was recieved from Jen Rutter
Environmental Program Manager, Community & Economic Development Department ADAMS
COUNTY, COLORADO
4430 South Adams County Parkway, 1st Floor, Suite W2000A
Brighton, CO 80601
720.523.6841 | jrutter@adcogov.org

Regarding the farm property that was recently purchased by AFS, north of the current mine, it does not need to be rezoned to be permitted for mining. Mining is a conditional use in the Agricultural-3 zone district and the process for obtaining a permit would require two public hearings, one before the Planning Commission and one before the Board of County Commissioners. We have not yet been approached by AFS for a new or amended mining application in this area. There will be several

opportunities for public involvement in the permit process, including a neighborhood meeting, request for comments during the application review, and two public hearings.

We have never been notified about any meetings or public hearings.

Thank you for taking the time to read this letter.

I can be reached at: Mark Faber 303-489-4330 or
Victoria Katchen 303-489-5596 or at vkatchen@yahoo.com.

Sincerely,

Mark Faber

A handwritten signature in dark ink, appearing to read "Mark Faber", with a long horizontal flourish extending to the right.

Victoria Katchen

A handwritten signature in dark ink, appearing to read "Victoria Katchen", with a long horizontal flourish extending to the right.

5LE
RECEIVED

APR 05 2019

4/1/19

DIVISION OF RECLAMATION
MINING AND SAFETY

Division of Reclamation
Mining & Safety
1313 Sherman St.
Suite 215
Denver, CO 80203

RE: AFS-Bennett Pit
M.L.R.B. Permit #M-2001-038

To Whom This May Concern,

We are owners of adjacent property to the South and are very concerned with the mining operation that has taken place over the past few years.
Concerns:

1. Impact to adjacent Wet Lands
2. Visual Impact to Community
3. Impact on property Values
4. Reclaiming & Restoration of site to previous conditions
5. Noise pollution
6. Traffic Impact from Heavy Trucks on 72nd Hwy 79
7. Impacts on area wildlife

Have any or all of these issues been evaluated?

Sincerely,
Ellethea Copeland


ALBERT FREI & SONS

P.O. BOX 700
HENDERSON, CO 80640
(303) 289-1837
(303) 289-2865 FAX

March 1, 2019

The Robert & Alethea Copeland
Revocable Living Trust
49200 E. 64th Ave
Bennett, CO 80102

Dear Trustees;

CERTIFIED, RETURN
RECEIPT REQUESTED
ITEM # 7102780000220633827

RE: AFS-Bennett Pit
M.L.R.B. Permit #M-2001-038

This letter contains a notice that we have filed an amendment to a permit application for the above referenced mine. We are required to send this letter to you as part of the application process. It contains a date by which you will need to file any comments with the Division of Reclamation Mining and Safety for them to be considered during this permitting process. If you have any questions please call myself (303) 289-1837 or Steve O'Brian of Environment, Inc., (303) 423-7297 and we will be happy to answer them for you.

Sincerely,
Albert Frei and Sons, Inc.
Ben Frei

PUBLIC NOTICE

Albert Frei and Sons, Inc. has filed an amendment or an application for a Reclamation Permit with the Colorado Mined Land Reclamation Board under the provisions of the Colorado Mined Land Reclamation Act for the extraction of construction materials. The proposed mine is known as the AFS-Bennett Pit and is located in Parts of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T-3-S, R-63-W, 6th Principal Meridian, Adams County, Colorado.

The proposed date of commencement was 2002 and the proposed date of completion December 2035. The proposed future use of the land will be rangeland.

Additional information and the tentative decision date may be obtained from the Division of Reclamation Mining and Safety, 1313 Sherman St., Suite 215, Denver, CO 80203 (303) 866-3567, or at the Adams County Clerk and Records office, 4430 S. Adams County Parkway, First Floor Suite E2400, Brighton, Colorado, 80601, or the above named applicant.

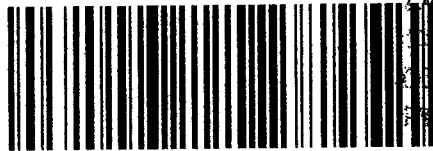
Comments must be in writing and must be received by the Division of Reclamation, Mining & Safety by 4:00 p.m. on April 11, 2019.

Please note that comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects and similar ones, are typically addressed by your local governments, rather than the Division of Reclamation Mining and Safety or the Mined Land Reclamation Board.

Albert Frei and Sons, Inc.
Henderson, Colorado

Althea Copeland
50180 E. 64th Ave
Bennett, CO 80102

CERTIFIED MAIL



7018 2290 0000 2358 0445



1000



80203

U.S. POSTAGE PAID
FCM LETTER
BENNETT, CO
80102
APR 03, 19
AMOUNT

\$6.85

R2304W120052-22

RECEIVED

APR 05 2019

DIVISION OF RECLAMATION
MINING AND SAFETY

Division of Reclamation Mining + Safety
1313 Sherman Street, Suite 215
Denver, CO 80203

8020382243 0031



5/6



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

MAR 18 2019

Planning, Programs, and Project Management Division

RECEIVED
MAR 26 2019
DIVISION OF RECLAMATION
MINING AND SAFETY

Mr. Scottie Tate
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Dear Mr. Tate:

The U.S. Army Corps of Engineers, Omaha District (Corps) has reviewed your letter dated February 21, 2019 (received February 25, 2019) regarding the environmental review of the proposed Construction Materials Reclamation Permit Amendment Application Consideration (Permit No. M-2001-038-AM01), in Adams County, Colorado. It is understood that Albert Frei and Sons Inc. filed an Amendment application for AFS – Bennett Pit located at or near Section 2, Township 3S, Range 63W, 6 Principal Meridian. We offer the following comments for your consideration:

Your plans should be coordinated with the state water quality office that has jurisdiction within the area where the project is located to ensure compliance with federal and state water quality standards and regulations mandated by the Clean Water Act and administered by the U.S. Environmental Protection Agency. Please coordinate with the Colorado Department of Public Health and Environment concerning state water quality programs.

If you have not already done so, it is recommended you consult with the U.S. Fish and Wildlife Service and the Colorado Division of Wildlife regarding fish and wildlife resources. In addition, the Colorado State Historic Preservation Office should be contacted for information and recommendations on potential cultural resources in the project area.

Since the proposed project does not appear to be located within Corps owned or operated lands, your plans should be submitted to the local floodplain administrator for review and approval prior to construction. It should be ensured that the proposed project is in compliance with the floodplain management criteria of Adams County and the State of Colorado. In addition, please coordinate with the following floodplain management office:

Colorado Water Conservation Board
Attention: Ms. Jamie Prochno
1313 Sherman Street, Room 721
Denver, Colorado 80203
Telephone: 303-866-3441 ext. 3215
Fax: 303-866-4474
Email: jamie.prochno@state.co.us

Any proposed placement of dredged or fill material into waters of the United States (including jurisdictional wetlands) requires Department of the Army authorization under Section 404 of the Clean Water Act. You can visit the Omaha District's Regulatory website for permit applications and related information. Please review the information on the provided website (<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram.aspx>) to determine if this project requires a 404 permit. For a detailed review of the permit requirements, preliminary and final project plans should be sent to:

U.S. Army Corps of Engineers
Denver Regulatory Office
Attention: Mr. Kiel Downing, CENWO-ODR-CO
9307 South Wadsworth Boulevard
Denver, Colorado 80128

If you have any questions, please contact Ms. Shelly McPherron of my staff at (402) 995-2507 or michelle.m.mcpherron@usace.army.mil and reference PD# 8164 in the subject line.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Laux". The signature is fluid and cursive, with the first name "Eric" and last name "Laux" clearly distinguishable.

Eric A. Laux, PMP
Chief, Environmental & Cultural Resources

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA, NEBRASKA 68102-4901

PMA-C
OFFICIAL BUSINESS

OMAHA
NE 680
20 MAR '19
PM 2:1



POSTAGE & FINE B WES
ZB 0100 \$ 000.50⁰
00 4W
0100 019

Mr. Scottie Tate
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

RECEIVED

MAR 26 2019

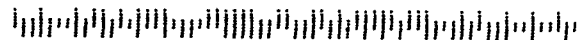
DIVISION OF RECLAMATION
MINING AND SAFETY

RECEIVED

MAR 26 2019

DIVISION OF RECLAMATION
MINING AND SAFETY

80203-224365



To: Division of Reclamation, Mining & Safety

From: Kelsey Magnuson

7490 Provost Road

Bennett, CO 80102

(720) 937-7949

RECEIVED

APR 10 2019

DIVISION OF RECLAMATION,
MINING & SAFETY-MINERALS
~~PER~~ ~~REPORT~~ ~~MAP~~

April 9, 2019

Subject: AFS-Bennett Pit # M-2001-038 Permit Amendment Comments

To whom it may concern:

I petition for a hearing to discuss the proposed amendment considerations to the original permits granted to Bennett Sand and Gravel (EXG2001-0004, Case# EXG2005-0006 and Case#RCU2015-00041). As a neighbor who lives less than a half a mile from the location, I have numerous concerns about the proposed gravel expansion and permit amendment proposed by Albert Frei & Sons (AFS).

Previously, Bennett Sand and Gravel transported on average about 20 loads of mined sand and gravel daily. The original permit and extensions authorized to Bennett Sand and Gravel were suitable and appropriate based upon the small impact the previous owner's business had on the neighbors and environment. A major concern is the proposed expansion by AFS to drastically increase the size of the sand and gravel pit as well as the direct affects it will have on the environment, wildlife, air quality, quantity and quality of well water and the safety and livelihood of the neighbors. Even though there are plans to mitigate and refill the pit with clean inert fill material, it will never again be the same.

I am grateful everyday for our property. One of the many irreplaceable joys for us is the variety of wildlife we are surrounded by. Routinely we see a large herd of deer, numerous birds of prey who aid in rodent control and even the coyotes that howl at night. The neighborhood residents enjoy a beautiful rural setting with clean, dust free air, beautiful view of the mountains, clean, abundant water and a quiet serenity only one can experience living in the country. Bennett Sand and Gravel respected and recognized these intangible qualities of country living and ensured the business did not consume the whole area. Bennett Sand and Gravel maintained the road and removed snow, contacted the neighbors about any concerns and ensured the business did not adversely affect the neighborhood or environment.

Due to the drastic changes AFS is proposing in their request for an Amendment to the Original Permit issued to Bennett Sand and Gravel, I am petitioning for a hearing, as well as a request AFS seek a new Permit at 50500 E 72nd Ave.

Currently, AFS has been operating the Sand and Gravel Pit for approximately a year. They did not reach out to us as neighbors at all. We heard of the expansion from one of our neighbors who shared with us their intentions of expanding the Sand and Gravel Pit.

My neighbors and I all share the same concerns.

Here is the list of our concerns:

1. Truck traffic has drastically increase from approximately 20 loads daily (CDOT Permits Unit 12-16-2015) causing extreme damage to E 72nd Ave and Provost Road jeopardizing the safety of those using the road and possibly leading to vehicle damage. It also creates safety issues turning onto or off of State Highway 79.
2. Truck traffic has increased dramatically. Per the CDOT Permits Unit 12-16-2015, the proposed traffic of 20 ADT has not been adhered to. AFS should seek a new State Highway Access permit at E 72nd Ave and State Highway 79. Truck traffic is also heavy on Provost Road, especially in the summer time.
3. Trucks travel faster than the posted 25 mph speed zone and causing noise pollution in the neighborhood. I am concerned for my safety when I am on the road as well as my pets and livestock due to the speed at which the trucks travel down 72nd Ave and Provost Road.
4. Trucks are parking on E 72nd Ave instead of parking on the sand pit road causing traffic safety concerns.
5. Plan to address the public roads and possibly pave (E 72nd Ave and Provost Road).
6. Approximately half of the trucks don't cover the loads as required by the original permit.
7. Unknown liquids and solid materials have been dumped the pit area.
8. Large rifle gunfire heard around dusk from the sand and gravel pit area and 49950 E 72nd Ave (used against the local deer herd). Dead deer have been noted near the property as a result.
9. Barbed wire fencing used instead of the required mesh fencing to protect wildlife, farm animals and people from death or injury at the sand and gravel pit.
10. Plan for noxious weed mitigation.
11. Plan for wildfire mitigation.
12. Will explosives be used in the mining operation?
13. Any chemicals used in the mining or processing of materials?
14. Depth of the gravel and sand deposits. How deep will the mining dig to excavate the materials?
15. Will water be used in the process of excavating or processing the materials? How will that affect the neighborhood water and wells?

16. Is there a Water Plan in place to ensure the quality and quantity of water the area currently uses is not affected by its operations?
17. Is there a new Mining Plan?
18. Is there a new Site Description?
19. Is there a Reclamation Plan and Map?
20. Can neighbors see required Permits, Licenses and Inspection Reports?
21. Is there a Geotechnical Stability Exhibit?
22. A list of inert materials and liquids used to backfill the pit and inspections to ensure ground water, air and land non-toxicity?
23. How will the materials be processed?
24. Dust Control at site and on the road. Watering, carpeting roads with aggregate and speed restrictions are suitable methods. The use of chemical stabilizers creates a road safety problem when it rains or snows by making the dirt road very slippery and mushy.
25. Inspections in air quality, noise mitigation, hydrology and water quality/quantity, the safety and protection of wildlife, explosives and chemicals.
26. Date and results of ambient groundwater quality and quantity.
27. Plans to dig a well.
28. Engineering plan to describe how materials will be placed and stabilized to avoid settling and voids.
29. Water Plan to include if the pit will be lined and the use of dewatering techniques.
30. Plan to address the public roads and possibly pave (E 72nd Ave and Provost Road).
31. Since AFS has operated the sand and gravel pit, the noise levels have increased dramatically.
32. Is there an Environmental Protection Plan to address noise?
33. Has AFS operated the sand and gravel pit under the original Permit?
34. Has AFS followed the provisions in the original Permit?
35. Can a company be sold, and the original Permit be used by the purchasing company without amendments; i.e. name change, loads per day, road maintenance?
36. When Bennett Sand and Gravel owned the business and property and met with Adams county Planning commission (#RCU2015-00041), Bennett Fire Protection District #7, Colorado Department of Health and Environment, CDOT, IREA, Tri-County Health Department, Xcel Energy all were involved and signed off in approval. Does AFS have to undergo the same process with the new expansion of the sand and gravel pit?

I know when I needed a permit for my barn that was constructed a little over a year ago I needed a new permit and various inspectors signed off along the way as well as specific types of insurance. As a law abiding citizen, I would hope AFS is held accountable to do the same.

I know that some of my concerns need to be addressed to Adams County and I will be sending them a copy of this letter as well.

Due to the concerns listed, the lack of transparency by AFS and the proposed drastic changes to the neighborhood, I respectfully petition for a hearing.

I appreciate the time you take to consider these requests.

Sincerely,

Kelsey Magnuson

Copy sent to:

1. Division of Reclamation Mining and Safety
1313 Sherman St. Suite 215
Denver, CO 80203

2. Adams County
Community & Economic Development Department
Jen Rutter, Environmental Program Manager
4430 S. Adams County Parkway
1st Floor, Suite W2000A
Brighton, CO 80601

To: Division of Reclamation, Mining & Safety

From: Jennifer Curtis & Kimberly Chainhalt

49850 E 72nd Ave

Bennett, CO 80102

(720) 936-2348

RECEIVED

APR 10 2019

**DIVISION OF RECLAMATION,
MINING & SAFETY-MINERALS
~~FEE REPORT MAP~~**

April 6, 2019

Subject: AFS-Bennett Pit # M-2001-038 Permit Amendment Comments

I petition for a hearing to discuss the proposed amendment considerations to the original Permit granted to Bennett Sand and Gravel to Mr. Dave Lincoln. I have several concerns as a property owner whose property will be bordered on two sides by the proposed expansion proposed by AFS.

One concern is the proposed expansion doubling the size of the sand and gravel pit. The previous permit was authorized based upon the small impact the previous owner's business had on the environment and neighbors. Routinely, Bennett Sand and Gravel averaged 20 loads of material being mined and transported daily. This was appropriate and did not adversely affect the environment, wildlife, air quality, water quantity and quality and impact on the quality of life of affected neighbors.

There is a herd of about 20-30 deer who live in the neighborhood. There are many different birds who provide pest and rodent control to the neighborhood. The neighborhood enjoys the rural setting that affords its residents clean, dust free air; a beautiful view of the front range mountains, clean and plentiful water and a stillness that allows its residents the enjoyment of birds singing and bees buzzing. These qualities are the intangible benefits of living in this neighborhood and Bennett Sand and Gravel respected this by ensuring the business did not consume the whole area. Bennett Sand and Gravel maintained the road and removed snow, contacted the neighbors about any concerns and ensured the business did not adversely affect the neighborhood or environment.

Due to the drastic changes AFS is proposing in their request for an Amendment to the Original Permit issued to Mr. Dave Lincoln, I am petitioning for a hearing, as well as a request AFS seek a new Permit at 50500 E 72nd Ave.

Currently, AFS has been operating the Sand and Gravel Pit for approximately a year. They did not reach out to the neighbors to share their intention of expanding the Sand and Gravel Pit until February 2019. List of concerns:

1. They did not let the neighbors know that truck traffic would increase from approximately 20 loads daily (CDOT Permits Unit 12-16-2015) to approximately 20 loads hourly causing extreme damage to E 72nd Ave and jeopardizing the safety of those using the road and causing vehicle damage. It also creates safety issues turning onto or off State Highway 79.
2. Since AFS has operated the sand and gravel pit, the noise levels have increased dramatically.
3. Truck traffic has increased dramatically. Per the CDOT Permits Unit 12-16-2015, the proposed traffic of 20 ADT has not been adhered to. AFS should seek a new State Highway Access permit at E 72nd Ave and State Highway 79.
4. Trucks are parking on E 72nd Ave instead of parking on the sand pit road causing traffic safety concerns.
5. Trucks travel faster than the posted 25 mph speed zone and then use their Jake brake to slow down causing noise pollution in the neighborhood.
6. Approximately half of the trucks don't cover the loads as required by the original permit.
7. Unknown liquids and solid materials have been dumped the pit area.
8. Large rifle gunfire heard around dusk from the sand and gravel pit area and 49950 E 72nd Ave (used against the local deer herd).
9. Barbed wire fencing used instead of the required mesh fencing to protect wildlife, farm animals and people from death or injury at the sand and gravel pit.
10. Plan for noxious weed mitigation.
11. Plan for wildfire mitigation.
12. Will explosives be used in the mining operation?
13. Any chemicals used in the mining or processing of materials?
14. Depth of the gravel and sand deposits and how deep will the pit dig to excavate the materials.
15. Will water be used in the process of excavating or processing the materials?
16. Is there an Environmental Protection Plan to address noise?
17. Is there a Water Plan in place to ensure the quality and quantity of water the area currently uses is not affected by its operations?
18. Is there a new Mining Plan?
19. Is there a new Site Description?
20. Is there a Reclamation Plan and Map?
21. Can neighbors see required Permits, Licenses and Inspection Reports?
22. Is there a Geotechnical Stability Exhibit?
23. A list of inert materials and liquids used to backfill the pit and inspections to ensure ground water, air and land non-toxicity?
24. Original Permit for the sand and gravel pit.
25. How will the materials be processed?
26. Dust Control at site and on the road. Watering, carpeting roads with aggregate and speed restrictions are suitable methods. The use of chemical stabilizers

creates a road safety problem when it rains or snows by making the dirt road very slippery and mushy.

27. Inspections in air quality, noise mitigation, hydrology and water quality/quantity, the safety and protection of wildlife, explosives and chemicals.
28. Date and results of ambient groundwater quality and quantity.
29. Plans to dig a well.
30. Engineering plan to describe how materials will be placed and stabilized to avoid settling and voids.
31. Water Plan to include if the pit will be lined and the use of dewatering techniques.
32. Plan to address the public roads (E 72nd Ave).
33. Plan to pave E 72nd Ave.
34. Has AFS operated the sand and gravel pit under the original Permit?
35. Has AFS followed the provisions in the original Permit?
36. Can a company be sold, and the original Permit be used by the purchasing company without amendments; i.e. name change, loads per day, road maintenance?

I realize some of my concerns ~~are~~ fall under Adams County jurisdiction. I will be sending them a copy of this letter as well.

Due to the concerns listed, the lack of transparency by AFS and the proposed drastic changes to the neighborhood, I respectfully petition for a hearing. Thank you very much for your time and thoughtful consideration to this matter.

Sincerely,



Jennifer Curtis


Kimberly Charnoff

Copy sent to:

1. Albert Frei & Sons

P.O. Box 700

Henderson, CO 80640

2. Adams County

Community & Economic Development Department

Jen Rutter, Environmental Program Manager

4430 S. Adams County Parkway

1st Floor, Suite W2000A

Brighton, CO 80601