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## Peak Materials Gravel Permit - Turning Highway 9 Into Part of the Mine With Foreseasable Fatalities

1 message

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Paul Lippe <paullippe@legalonramp.com>  
To: drms.temp@state.co.us

Thu, Oct 8, 2020 at 8:16 AM

October 8, 2020

Colorado Division of Reclamation, Mining and Safety  
[1313 Sherman St.](#)  
Denver, CO 80203  
RE: Application by Peak Ranch Resource (File No. M2020041)

Dear DRMS:

I am writing to seek Party status to testify about the above-mentioned application by Peak Materials to establish a gravel mining operation at the site designated as Peak Ranch Resource.

We live at 876 County Road 1425, mile 111.7 on Highway 9. We have owned the property since 1999 and are I believe only the third title owners on this property since Colorado's admission as a State. Various family members have lived there year-round since 2011.

I was formerly Chairman of the Colorado Air Quality Control Commission appointed by Governor Roy Romer, so have dealt with issues of this kind as both a citizen and regulator, as well as an advisor to the Governor.

Perhaps of greater relevance, in 1977 I rode the then BikeCentennial (now TransAmerica) bike trail from Virginia to Oregon, which travels along Route 9. This was my first time in the Blue River Valley. In 2017 two of our kids did the TransAm race along the same route (along with hundreds of other riders, many riding thru the night), and every year we host some TransAm riders.

**Highway 9 between Silverthorne and Kremmling is one of the most heavily traveled bike corridors in the country.** It is the route of both the TransAmerica trail from Oregon to Virginia and the Tour de Divide Route from Canada to Mexico.

In addition to local bikers and visitors to Summit Country, in a typical (non-COVID) summer there are a dozen or more thru bikers on Highway 9 every day. So for the bulk of those riders, they don't have familiarity with the road, and won't have any expectation of heavy truck traffic or gravel debris. You are well aware of the heavy traffic and frequently aggressive passing that already occurs on Highway 9 for drivers just getting off I-70 and rushing to (or back from) Kremmling or Steamboat, and those dangerous conditions will certainly get worse with more truck traffic.

What's more, having driven down Highway 9 countless times, I can tell you from experience that the gravel trucks do shed gravel perhaps one out of every 20 trips, and of course there are many examples of broken windshields, etc.

When that gravel (or the gravel truck) **hits a cyclist**, it's not just a matter of a broken windshield; **there is a high probability of a fatality or severe accident.** This is simply unfair to visitors and would be an irresponsible action by you to permit this, knowing the inevitable outcome.

FWIW, I also have previous experience doing legal work for a Denver-based mining company and am very aware as you are that *traffic within a mine is the leading source of serious injuries and fatalities*. Mine safety procedures focus heavily on safeguarding interactions between mining trucks and humans, safeguards which could not possibly be effectively applied on Highway 9.

In addition to the obvious concerns about wildlife, environment, negative impact to tourism revenues, air quality, water quality, etc., that you are doubtless hearing about, I have a specific legal concern that both you and the County Commission need to address. At a minimum, I believe you are compelled by your own rules to get a legal opinion on this question as part of your considerations.

**By effectively designating Highway 9 as a mining road between the two sites, by approving the permit you would be turning Highway 9 into part of the mine,** which would not only likely create strict liability for Peak Materials, but has foreseeable consequences in terms of fatalities to locals and unsuspecting visitors, and may obviate sovereign immunity for your Board and the Summit County Commission.

I urge your attention to the events of 1987 and the relevant precedent when Governor Romer took responsibility for an accident caused by state worker action.

<https://www.latimes.com/archives/la-xpm-1987-08-11-mn-842-story.html>

So not only is Peak Ranch Resource (i) a bad idea and a bad trade-off for the community and environment, (ii) it knowingly puts at risk visitors to our area and (iii) may well lead to tax increases to pay for foreseeable injuries that would be recoverable by those visitors (and locals).

I wish to be heard at the public hearing of the Colorado Mined Land Reclamation Board when the Board takes up this application. Please add me to your email distribution list notifying interested parties of the date, time and location for this meeting.

I am respectful of and sympathetic toward the arguments about the benefits of both gravel and jobs, but I am certain that when you consider the total harm that would be caused by this project it far outweighs the economic benefits.

Sincerely,

Paul Lippe

876 Country Road 1425  
Silverthorne, CO 80498

Number of people in your household 8