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February 9, 2021

VIA U.S. MAIL
FACSIMILIE & EMAIL

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

Re: Prowers Aggregate Operators, LLC Reclamation Permit M2008-078

To whom it may concern:

Please be advised that this office represents Brian and Karen Nunnery (the Nunnerys) regarding the above referenced Permit application. The Nunnerys are landowners and business owners located within 200 feet of Prowers Aggregate Operators, LLC's (PAO) proposed mining operation. The Nunnerys do not oppose the application. However, they do have concerns about the impacts of PAO's operation and proposed expansion under Permit M2008-078 which they believe can be addressed by conditions being added to any permit issued to PAO for the expansion of its operations.

The Nunnerys own and operate a retail furniture business near PAO's operation. The Nunnerys and members of their family have operated businesses in the same two locations for many years. One property is located at 9209 U.S. Highway 50 and the other is at 9800 U.S. Highway 50. Both properties are just south of the southern portion of POA's operation. The operation of the businesses predate PAO's operation. PAO's operation currently deposits a considerable amount of dust and particulates onto the Nunnerys' properties, particularly on the property located at 9209 U.S. Highway 50 which interferes with their furniture business. PAO piles large mounds of uncovered and unsprinkled sand and gravel just north of the railroad tracks which separates PAO's operation from 9209 U.S. Highway 50. Dust and particulates from the mounds create a mini-dust storm each time the wind blows, which is quite often in the Lamar area. The Nunnerys' displays of dining room, bedroom, living room furniture, and storage area receive a daily coating of dust and particulates that has to be removed on a near daily basis, which was never the case prior to when PAO beginning operations. Photographs are attached. Not only does the dust cause issues for the Nunnerys' business, it also creates a hazard for drivers on U.S. Highway 50 which is immediately to the *south of the 9209 property.

Conditions must be placed on PAO by the Board requiring PAO to implement measures to reduce the amount of fugitive dust and particulates being generated by PAO's operation. An inspection and enforcement regime needs to be incorporated into the conditions to ensure compliance.

The Nunnerys are also concerned regarding the potential for damage to the structures as a result of PAO's operation. Rule 6.3.12 provides the following regarding Permanent Man-Made Structures:

The Applicant shall provide information sufficient to demonstrate that the stability of any structures located within two hundred (200) feet of the operation or affected land will not be adversely affected. If the Office determines that such information is inadequate to demonstrate that the operation will not adversely affect the stability of any significant, valuable and permanent man-made structure, the Applicant shall either:

- (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.

The Nunnerys request that pursuant to Rule 6.3.12(b) that PAO conduct an appropriate engineering evaluation that demonstrates that such structures shall not be damaged by activities occurring at PAO's operation and that a copy of the evaluation be provided to the Nunnerys at no cost to them.

Lastly, the water level in the Nunnerys' domestic water wells have dropped since PAO began its operation. As noted in Exhibit G to the Application, POA's mining operations likely will have adverse impacts on the ground water levels in the area adjacent to the operation. The adverse impacts will only increase as the operation expands. Protections to the Nunnerys' domestic water supplies, as well as other households in the immediate area, must be added as a condition to any permit issued to POA for the expansion. The protection should include the deepening of the wells at POA's cost or the provision of an adequate replacement source of water again at POA's expense.

The Nunnerys thank you for your consideration of their concerns. If you have any questions or comments, please contact me.

Sincerely,



Stewart W. Olive
Attorney at Law

Attachments











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Nikon **LASER 1200** 7x25 5°
WATERPROOF





