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Sirs,

We are strongly opposed to the proposed Frei Quarry expansion, an expansion that will nearly double the quarry footprint to approximately 750 acres.

We are neighbors to the Frei Quarry, living less than a mile away as the crow flies. We reside on the southwest side of Douglas Mountain, directly facing the quarry. Our lives are impacted daily by the Frei Quarry.

Please accept and consider our testimony of opposition since we are property owning residents and are an “aggrieved” party to the Frei Quarry expansion. Under the rules governing a citizen’s rights as related to Construction Material Rules and rule 1.1 (38.1) of the Hard Rock/Metals Mining Rules, “aggrieved” is defined as “suffering actual loss or injury or being exposed to potential loss or injury to legitimate interests. Such interests include, but are not limited to, business, economic, aesthetic, governmental, recreational, or conservational interest.”

Additional testimony should be allowed regarding the expansion. It is our understanding that only one objection to the expansion has been registered and as such that single party is the only party to be included in the hearing process, however, aggrieved citizens still have rights as outlined above.

Also, we would respectfully submit that the lack of objections is not due to lack of concern, it is simply the result of inadequate and antiquated public notification requirements. There has been little to no outreach by Frei, hence there is a general lack of awareness in the impacted communities. It is true that Frei has published a webpage pertaining to the expansion, however, we respectfully suggest that a webpage is not outreach to the community. Additionally, because Frei Quarry is tucked away in the northeast-most corner of the county, residents and businesses

in Clear Creek County have minimal interest, awareness, or stake in the quarry or its impacts on infrastructure and the environment. Douglas Mountain, Clear Creek Canyon, and Golden Gate Canyon residents and users have just now become aware of expansion plans and are extremely concerned.

Is past performance indicative of the future, exasperated by an expansion and a larger quarry footprint? Some observations of past performance are alarming, including:

- It is our understanding that the MLRB (Mine Land Reclamation Board) has allowed the Frei Quarry to perform mining activity outside the permit boundary. This is evident in the Frei utilization of the Gilpin Waste Fine Dump which because it is outside the Quarry Permit Boundary is not within the jurisdiction of the Division.
- Has the Frei Waste Dump been properly regulated over the last 14 years and has such lack of regulation caused grievances (many) including poor air quality, stream degradation, visual impact, potential wildlife hazards due to the "angle of repose placement of the fill", and general mismanagement of the area? Gilpin County placed several stipulations on the use of the site which appear to not have been adhered to. (Please refer to the 2007 grading permit and Special Use Resolution which identify the stipulations.) Currently, the dump far exceeds the allowed disturbed area; it has not been managed per MLRB recommendations, which we assume would regulate placement, compaction, dust mitigation, slope stability and grades, among other items. We do realize this area is not within the jurisdiction of the Division, however, going forward can we ask that all mining activity be within the Permit Boundary? Gilpin County does not appear to have the technical expertise to manage an extensive mining operation such as this dump, nor, in our opinion, should they be expected to regulate it. DRMS is highly qualified in this type of regulation and should be the lead agency on this going forward!
- Dust from the fill area has been a constant issue for at least 14 years. Placing the dump on the peak of a windy hill, adjacent to and up-wind from, residential areas without the requirement to safeguard, stabilize, revegetate, or otherwise manage the dump, has been a huge burden on both the residents of the area as well as the many citizens of Colorado that cherish this area for its recreational opportunities. The canyon acts like a wind tunnel, at times launching a haboob-like cloud from and over the quarry as it then permeates down the canyon. There most certainly has not been adequate efforts to control dust and that will surely get worse as the quarry footprint grows.

We must ask the question, is it time to involve EPA-Colorado? That agency encourages "reports of what appears to be a possible violation of environmental laws and regulations." EPA further recommends environmental events observed that may lead to an immediate threat to human health or the environment should be reported when affecting land, water, air, and workers.

- The geological composition of this site is already known to produce a significant amount of waste, both solid and airborne materials. It is estimated that they have produced over 6 million cubic yards of stored waste in the last 14 years. How will Frei accommodate future waste? To date they have failed the community and the

environment in terms of dust and erosion management, what assurances do we have that this will not be allowed to continue or get worse in the future with expansion?

- Sediment emanates from the Frei site on all sides and in all directions. Trucks track it onto the highway. Slopes have washed out and failed. Relying on Frei's own numbers, the fines pile has maxed out while it is still eroding, only sporadically covered with weeds. (It has previously failed and washed into North Clear Creek.) By any measure, Frei has not followed the clearly stated Gilpin Fill site rules for over 14 years and there is no indication they will suddenly begin to follow the rules if this expansion plan is approved. Should these alleged poor ownership values and very poor management practices be rewarded with additional entitlement?
- The very minimal amount of revegetation activity that has been performed over the last several years does not bring the landforms back to an acceptable visual standard, as evidenced by the views from I-70 as well as Highway 6 through Clear Creek Canyon. According to the expansion plan, Frei is asking to increase the slope of the existing highwall essentially making it twice as steep as it currently exists! While that may be a benefit to Frei as it will remove the need to revegetate in the future since revegetation will be all but impossible, is this the right thing for the visual impacts, for erosion and pollution of the air and streams? Where is there any balance between maximizing the minable rock with any semblance of meaningful revegetation? Is this the time to insist the Frei operation do better and there are better ways? Meaningful reclamation has never been observed to be implemented at the Frei Quarry. The area of disturbance is large now; it will surely grow bigger and bigger. Is it best mining practice to mine and re-mine, grow waste piles, etc. without ever successfully bringing the property to a state that is eligible for release from their reclamation permit or bond?

Future concerns, resulting from the expansion of the Frei Quarry are many, including and not limited to:

1. There will be safety and economic impacts to recreational resources. For example, millions are being invested in the Peaks-to-Plains Trail that parallels Clear Creek and Highway 6. Derived benefits are being negatively impacted and impeded by the continual noise, jack brakes and all, down the canyon from the current 300-400 trucks per day (and permitted to 1,500 trucks per day!) Hikers, fisherman, bicyclists, rock climbers are all impacted.
2. With excavation far below current ground and water table, a proposed reservoir will require extensive (and undefined) engineering and risks, potentially becoming "anaerobic and putrid." Is this a good use of Colorado's water resources?
3. The proposed expansion will create large volumes of waste dump material. Where is this going to be dumped? Will it be regulated by the State or the County? Will Frei be forced to adhere to reasonable mining standards?
4. Does the expansion consider the safety of the many users of the Clear Creek corridor? There is concern regarding the slope stability in the area and one must question whether adequate measures have been taken to appropriately design the expansion? For

example, the expansion area is designed to have .6:1 slopes, which appears to be pushing safety boundaries beyond what is necessary? The Frei website states that "mining is temporary, reclamation is forever". With .6:1 slopes, the proposed Frei reclamation will not be sustainable for the short term, let alone "forever."

5. The existing Frei Quarry is considered to have a very large "disturbed" area for a single mine. At Frei's, it seems that they never finish an area, but rather move about and continue to open new areas. In our opinion as residents, visually this is unacceptable. More importantly, the dust that is generated from this mining method is assuredly a health hazard. Coupled with Frei's arguably horrid dump management practices, the dust is well beyond what should be acceptable in any first world operation. The proposed expansion increases the disturbed area and their plan states that they will continue to keep the current mine area open as well as expanding into the already entitled northern area and the proposed expansion area. In total, they will likely more than double the disturbed area!
6. Frei's plan states that the near vertical mine walls that they will be creating will be future habitat for Big Horn Sheep. Regardless of any study that they may have performed, isn't it obvious that Frei simply designed the expansion to maximize the minable quantity while disregarding safety, wildlife, visual impacts, the citizens that recreate in the area, future generations who will use the Peaks-to-Plains Trail, those who enjoy the creeks lure and the best interests of the community? We have 20 plus miles of Clear Creek canyon that is part of the existing Big Horn Habitat. There are ample cliffs and plenty of habitat in its natural form. To say that Frei is creating additional habitat is seemingly disingenuous and misleading, this proposed expansion plan is simply the easiest and most profitable way to maximize the mining area. Instead of creating more habitat in its natural form, the opposite seems to be true, wildlife is pushed into an even greater level of conflict, pushed out into a narrower canyon habitat, already busy with human activity such as climbing, rafting, kayaking, and the Peaks-to-Plains Trail that is currently under phased construction.
7. The Frei proposal appears to be contrary to local planning and zoning. The area has not yet been rezoned while numerous plans for the area indicate rezoning would not be appropriate. The Clear Creek corridor is the subject of a stand-alone greenway plan. The area is slated for open space on current county long-range land use plans, indicating that the land use of the current quarry is not to be expanded into this area.
8. We must ask the question: what benefit are Clear Creek and surrounding counties and their residents deriving from this proposed expansion? How can any amount of tax justify the destruction of an area in such close proximity to a recreational gem such as the already truck-congested Clear Creek corridor? Additionally, we fear that with slopes as steep as are proposed, it is not a matter of if, but rather when a tragic accident happens. Considering the hundreds of hikers, climbers, rafters, kayakers, fisherman, and others, is this a responsible design? From our layman's point-of-view, this plan would appear to be extreme engineering by any measure. Why is it necessary?
9. Understanding that traffic is not something within the jurisdiction of DRMS regulation, it is none-the-less an issue near and dear to all who use the canyon. Perhaps you can and even should consider that in addition to all to personal commuters, recreationists, commercial and resident uses, as well as all the rock-hauling trucks (again currently about 300-400 truck load per day but permitted to over 1,400 per day), the canyon is

already overwhelmed with traffic and its impact. We submit, that's enough, the canyon is full, this canyon has done its fair share. Beyond traffic impact, the Frei Quarry expansion will also:

- Increase road damage. Much of Highway 6 was resurfaced some 3 years ago and it is now under a major repair and improvement effort by CDOT at a cost of over \$20 Million. We contend that much of the road damage is directly attributable to the volume of heavy rock-hauling trucks from the quarry. It appears to us that if Frei is going to continue and/or increase its production and thereby increase heavy highway traffic, a "use fee" should also be included in any agreement, if for no other reason than to pay for the road deterioration caused by heavy truck traffic (to say nothing about the inherent increased risk to life and limb that comes with mixing these huge commercial trucks with residential and recreational traffic).
- Cause additional pollution. Not only does the canyon act like a 'wind tunnel', ideal for distributing the voluminous dust that permeates from the quarry, the canyon also serves as a "megaphone", blasting/echoing noise up the canyon, disturbing both man and beast. The use of jack-brakes is common and especially annoying. Who is going to be responsible for the clean up when the tails all fall and kill people and destroy our Highway 6 and pollute our Clear Creek? Gilpin County can not even monitor or enforce the laws and rules because of lack of personnel in this field.

Why cannot trucks be directed to use Highway 40/Floyd Hill to I-70, rather than Highway 6 through the canyon? I-70 is most certainly designed for the type and volume of traffic that the Frei Quarry generates. It has been argued that trucks are unable to climb the long steep grade on Highway 6 up Floyd Hill, yet we personally have recently witnessed an increase in quarry truck traffic up Floyd Hill during the construction activity on Highway 6 through the canyon. Obviously, trucks from the quarry can utilize that much less traveled route, they are doing it now.

We also feel the need to inform the Division that we recently attended an informal presentation by another quarry under review in this area. Although we initially formally opposed the Young Ranch Resource Quarry and obtained Party Status to object to it, we were impressed with the presentation of Young Ranch's fill design as it seems to us to be far superior to what we have witnessed at the Frei Quarry for so long. The proposed Young Ranch Quarry design, as we understand it to be, includes their commitment to restoration of the mined area, as opposed to what appears to be simply a basic reclamation of near vertical faces as contained in the Frei proposal. Young's design appears focused on both blending the final mined landscape into the existing environment and revegetation that truly restores the landscape. We suggest that the Frei Quarry, as well as any future Colorado Quarries, should be held to a standard that is at least on par, or somewhat close, with what we perceive to be superior mining practices and one that is better suited to the site. Young Ranch Resource Quarry appears to be of such a design based upon our initial and cursory layman examination and could serve as a good model.

In conclusion and in consideration of our testimony above, we are in opposition to the expansion of the Frei Quarry. Thank you for the consideration afforded us and please contact us if additional information or clarification is required.

Regards,

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