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Posted at: https://dnrlaserfiche.state.co.us/Forms/DRMS_Comment

Subject:

File #M1976007– Denver Brick Company Proposal to Convert from 110c to 112c Permit

To whom it may concern:

We strenuously object to the mining application referenced above for the reasons set forth below. We respectfully request that the application be DENIED by the DRMS Board.

The southern portion of the parcel of land for the mine expansion in question (where the majority of the expanded mine would be located) is currently zoned as JeffCo A-2. **This zoning does not allow for any mining by right or even by special use permit.** Thus, under JeffCo's zoning resolution the only way to mine this site would be to rezone the site as "PD Mining." This would require a number of studies to demonstrate adherence with the County's Mineral Extraction Policy as well as public hearing process and final vote for approval before the Jefferson County Commissioners. The applicant has not successfully applied with Jefferson County to re-zone the property to change the zoning from A-2, and in fact, it previously withdrew its application to re-zone the property which it filed last year.

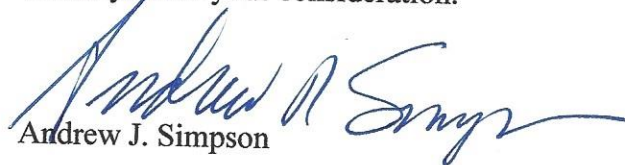
Additionally, CRS 34-32.5-115(4)(d) provides that an application can be denied if the proposed mining operation is "contrary to the laws or regulations of this state or the United States, including but not limited to all federal, state, and local permits, licenses, and approvals, as applicable to the specific operation."

We believe there is case law which suggests that the DRMS might validly deny a permit if the proposed mine would violate the applicable zoning of the site. As discussed above, we believe that mining is currently prohibited at this site under the Jefferson County Zoning Resolution. Therefore, DRMS should deny the application because the applicant has failed to comply with the current County zoning requirements.

Finally, CRS 34-32.5-115(4)(e) states as follows: "The mining operation will adversely affect the stability of any significant, valuable, and permanent manmade structures located within two hundred feet of the affected land; except that the permit shall not be denied on this basis where there is an agreement between the operator and the persons having an interest in the structure that damage to the structure is to be compensated for by the operator or, where such an agreement cannot be reached, the applicant provides an appropriate engineering evaluation that demonstrates that such structures shall not be damaged by proposed construction materials excavation operations."

There are at least 4 houses that would seem to fall within the 200 foot protected area, all located on the east side of Pine Ridge Road, and adjacent to the proposed mine site. We are aware of property damage to the house located at 5040 Pine Ridge Road, owned by Lorraine Wheeler, in either 2017 or 2018 from blasting done at the mine on the opposite side of the hogback. We are not aware of any agreement between the mining company applicant and any owner of property on Pine Ridge Road to compensate those owners from damage due to blasting by the applicant, nor has the applicant supplied DRMS with any required engineering evaluation that those structures will not be damaged by the applicant's proposed blasting. For this additional reason, we would request DRMS to deny the application.

Thank you for your consideration.


Andrew J. Simpson


Wendy A. Eder