

Daniel Shefter

Please see attached letter from Daniel Shefter and Lucyna Shefter, owners of residence at 120 Dell Creek Rd objecting to the small mining permit application.

September 4, 2024

This Objection Letter is being submitted online via the Land Quality Division's electronic comment portal at <http://lq.wyomingdeq.commentinput.com/>

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Re: Objection to Proposed Small Mining Permit in Bondurant WY

Background

We are homeowners and full-time residents of Bondurant, residing at 120 Dell Creek Rd (sometimes referred to as "our property"). We are writing to offer our strenuous objections to the issuance of a so-called "small mining permit" to Evans Construction to be located in Bondurant at Sections 20 and 29, T38N, R113W, Sublette County, Wyoming (the "Proposed Mining Property"). We firmly believe that this mining permit should be rejected because:

- The proposed mining operation will endanger the local environment, including the Dell Creek which runs through the Proposed Mining Property and then into the Hoback and Snake Rivers, as well as disturb the wide variety of wildlife that inhabits the immediately surrounding area;
- The proposed mining operation will create a public nuisance through noise, reduced air quality, excessive traffic with heavy trucks and an eyesore for local residents; and
- The application contains many false or inaccurate statements designed to increase the probability that it would be approved on false pretenses that it represents an innocuous project relative to the environment and community.

We would also note that the process by which this application was submitted and the public notice process are flawed and clearly designed to circumvent informed input from the local community, including residents in the immediate vicinity of the Proposed Mining Property who will be severely harmed if the mining operation is allowed to proceed.

Proposed Mining Operation

As described in the application for the mining permit, the Proposed Mining Property is located on Dell Creek Rd approximately 0.4 miles east of US Highway 191. While this property is currently used on an occasional basis as a gravel pit, the activity level is relatively modest (a few days a year) and the proposed mining operation would dramatically expand the scope of types of activities permitted on the Proposed Mining Property. While this may result in pecuniary benefits to the owner of the Proposed Mining Property, it would negatively impact in a dramatic fashion the surrounding environment and neighbors, including us. The immediate area is surrounded by residential homes, pasture lands, National Forest Service (NFS) lands, wetlands, creeks and a wide variety of wildlife that would all be adversely impacted by this inappropriate use of the Proposed Mining Property.

Our property is located less than 1,000 feet from the edge of the Proposed Mining Property. Our property also includes a section of Dell Creek which is upstream from the section of Dell Creek that runs through the Proposed Mining Property. Dell Creek is a critical habitat for cutthroat trout and other fish species and offers superb fishing which is accessible to both the public (via NFS lands) and private landowners. Dell Creek and the immediate vicinity is also a habitat for elk, pronghorn, moose and waterfowl. It is also home to a plethora of bald eagles and hawks who nest in close proximity to the Proposed Mining Property.

While the application for the mining permit includes maps that attempt to convey that the Proposed Mining Property is not located near other residences, that is very misleading. One neighbor's driveway directly abuts the Northwest edge of the Proposed Mining Property and another neighbor's residence is located almost across Dell Creek Rd from the Proposed Mining Property. Our property is also in close proximity such that noise and emissions from the mining operation would directly impact the quiet enjoyment of our property. In other words, this is a completely inappropriate location for a major industrial operation that the applicant proposes to exist for at least the next 20 years.

An Ecological Disaster Waiting to Happen

While the application for the mining permit paints a rosy story about how the operation is expected to have no impact on the local environment, this is incredibly misleading. In particular:

- The application states that there will be no runoff from the proposed operation into Dell Creek which runs through the Proposed Mining Property. However, even the current pit operation (which is much smaller in scale) results in substantial runoff into Dell Creek. The so-called "berms" that they construct at the property have large gaps that allow runoff into the adjacent wetlands and Dell Creek which is very evident every spring when the Dell Creek water below the Proposed Mining Property turns brown. This runoff then enters the nearby Hoback River several hundred yards downstream.
- The application also has proposed that mining operations will only occur in certain months after the spring runoff and that there is no longer any standing water at the Proposed Mining Property during the summer/fall months. Again, that is a false statement. Even as we write this letter in early September, there are large ponds of standing water in the pits despite experiencing an incredibly dry spring and summer, and a large rainfall would result in substantial runoff into Dell Creek.

- The proposed mining operation would involve a substantial amount of heavy equipment and workers. The applicant has proposed using at least the following machinery: processing equipment, crushing and screening machinery, temporary trailers, loaders, heavy duty dump trucks and bulldozers. This equipment will run on diesel or other fuels which will generate substantial noise and pollution and frighten wild animals. It is also likely to result in fuel spills that will eventually reach Dell Creek and then the Hoback and Snake Rivers. The application says they will not do fueling or maintenance on site, but then it also requests permission to have incredibly large fuel tanks (one 10,000 gallon tank along with another 5,000 gallon tank and potentially a third 2,000 gallon tank!) on premises and mentions that they will dispose of items such as oil filters properly. Thus, it's clear they plan to perform fueling and maintenance on site which creates a substantial risk of damaging the local ecology. While the applicant asserts that fuel spills over 25 gallons will be appropriately remediated, the applicant's past conduct of gravel pit operations illustrate that they are not concerned about safely maintaining the property or the health of the local environment. Also, "small" spills of under 25 gallons could have a significant impact on the local environment, including wetlands and Dell Creek, but do not require explicit remediation.
- The applicant is requesting permission to operate concrete and asphalt batching plants on site which will create a substantial amount of noise, dust and air pollution. This will have the potential to adversely impact air quality and scare off wildlife. The production of asphalt uses many chemicals that are harmful to humans, wildlife and the environment and can include benzene, toluene, ethylbenzene, xylene and formaldehyde. The volatile organic compounds (VOCs) evaporate into the air and can cause irritation to the eyes, nose and throat and inhaling VOCs can cause headaches, nausea and loss of coordination. Long-term exposure to VOCs can cause more serious damage to the brain, liver and kidneys. Fumes from asphalt are also known to cause skin cancer.
- The application claims that their operation will not impact wildlife. However, their application is misleading and incomplete. The immediate vicinity of the Proposed Mining Property is home to many bald eagles and hawks which have their nests in close vicinity to the Proposed Mining Property, but the application simply claims they haven't seen such nests within one half mile of the property (likely because the owners don't live in the area and are rarely in the area). Also, the bench immediately above the Proposed Mining Property is home to a herd of Pronghorn which were almost wiped out in the 2022-2023 winter and are now making a comeback on the bench in 2024 (several dozen fawns have been on our property this spring and summer). The mining operation would scare off the Pronghorn as well as other local wildlife given the noise, pollution and increased traffic.
- On the southwest side of the Proposed Mining Property there is a creek (sometimes referred to as spring creek) which the applicant describes as seasonal in an attempt to illustrate that this would not cause runoff into Dell Creek during mining operations. However, spring creek runs year round (including today and during the winter) and is used year round by ranchers, including the Campbell family which has been ranching the adjacent land for a century). Thus, once again the applicant is creating the false impression that there will be no environmental damage from their proposed operations to the surrounding wetlands and Dell Creek.

In summary, this proposed mining operation is an ecological disaster waiting to happen that is being covered up by an out of town owner that wants to make a financial return at the expense of the local environment.

A Public Nuisance

The application for the mining permit downplays the severe impact the operation would have on nearby residents. In fact, the operation would be so detrimental that one resident who previously owned the home almost directly across Dell Creek Rd worked in the Pinedale government office and likely became aware of the mining application is close proximity to her residence. This homeowner put her home on the market in this past March and sold the home to a buyer who was unaware of this application since there was no disclosure about the proposed mining application and the local Bondurant community was unaware of the owner of the Proposed Mining Property's secretive efforts to pursue this mining operation. If the potential use of a neighboring property is so obnoxious that it causes someone to sell their home, it's clearly a public nuisance.

There are many ways the proposed mining operation will adversely impact adjacent and nearby neighbors, including us:

- The operation will generate significant noise from the operation of very heavy equipment. The stated equipment list includes crushers, separators, bulldozer, heavy duty dump trucks as well as equipment for concrete and asphalt. The proposed hours of operation are from 6am to 7pm Monday through Saturday which means it will disturb the peace during most waking hours of this otherwise very quiet community.
- The operation will also emit noxious fumes, especially as it relates to concrete and asphalt that will directly and adversely impact the air quality. The Proposed Mining Property is located in an area of Bondurant that regularly experiences heavy winds which will transmit these fumes to neighboring properties.
- The operation will use various chemicals and store large amounts of fuels onsite which can leak and impact the water used in wells as well as the Dell Creek and downstream rivers. While they claim to have measures in place to protect against spills, their current pit operation provides sufficient evidence to prove they are not concerned about these impacts. For example, their existing berms have large gaps, their fences are decrepit and in desperate need of repair and their access road is not maintained (and isn't 25 feet wide as they claim in their application). Also, this specific area of Bondurant (Dell Creek) regular experiences winds of 50-60 miles per hour (or greater) which can blow over fuel tanks and other heavy equipment (not to mention portable toilets) and the application makes no mention of how they will deal with very high wind conditions.
- The existing pit operation is very close to existing electrical poles that service homes on Dell Creek Road and the expanded mining operation would require these electrical poles to be relocated. While the applicant has stated they have been in contact with the local utility company to relocate these poles, they have not provided any firm plan for their relocation and who would pay the cost of this project. If they moved the poles to a location that would not be impacted by the mining operation, this would locate them very close to Dell Creek Rd which could create hazards during the winter and impede snow plowing operations. Disturbing reliable electrical service to residents of Dell Creek Rd would be reckless.
- The maps that are included in the application appear designed to create the misleading impression that the Proposed Mining Property is not located close to other residences through careful cropping. However, one residence is almost directly across the street, another residence's driveway will be a few feet away from what will become an 80 foot cliff (creating a very dangerous condition especially in the winter) and our residence is sufficiently close to hear any trucks entering or exiting the property and the heavy mining equipment

which will impact our ability to work since we work out of our home office. In other words, while this is a rural ranching area, the Proposed Mining Property is situated in close proximity to many residences.

- The mining operation will also create significant traffic and dust and damage Dell Creek Rd which is a dirt road. The existing pit operation results in a modest amount of additional traffic and the trucks from Evans Construction often exceed the local speed limit and create large clouds of dust as they exit the property. The proposed mining operation would dramatically increase the number of very heavy trucks on Dell Creek Rd, thereby exacerbating traffic and dust. In addition, when heavy trucks are operating following a precipitation event, they can create large ruts and other damage to Dell Creek Rd and the application makes no mention of how they will operate to avoid such damage to the dirt road.

Public Notice and Comment Process Was Intentionally Designed to Minimize Public Understanding and Input

Based on the information provided in the mining permit application, it is clear that the owner of the Proposed Mining Property has been working on obtaining the mining permit for at least several years. It is also clear that the owner has been intentionally attempting to hide its effort to obtain a mining permit from neighbors until the last moment legally possible, and Sublette County has made it difficult for affected residents to obtain detailed information about the application.

With the possible exception of the prior nearby property owner who happened to work in Sublette County government, the first time nearby residents of the Proposed Mining Property received an indication of the mining application was in early August. This notification consisted of a very short letter (the "Notice") which provided extremely limited information about the proposed mining permit. It simply stated that "Evans Construction has applied for a small mining permit." It also states that the "mining permit area for the mining of sand and gravel will be located in [Proposed Mining Property] ... and the proposed operation is an existing gravel operation." There is no reference to the dramatic expansion of the size and scope of activities that are being proposed, including asphalt and concrete operations and the use of various types of heavy mining and processing equipment and temporary facilities.

The Notice provided information for recipients to object to the mining application, but did not provide a convenient way for recipients to obtain additional information about the application other than having to travel to Lander or Pinedale Wyoming and undertake the cumbersome process of reviewing and copying materials (i.e., no ability to access the information online as would be expected in 2024). We requested an electronic copy of the application from Sublette County Clerk to be sent to use via email or to allow us to bring in a thumb drive so we could download the application electronically. However, the response from the county clerk (Carrie Long) was "The information is in a large binder in our vault for public inspection." When we asked if they have an electronic copy, the response from the county clerk was "I do not have an electronic file of this document. If you would like a copy of the document, you can bring in a copier and copy the pages you want. That is what other people have done." Further, when we asked if they could provide us with a copy of all email correspondence between the county clerk and Evans Construction the response was "I am not sure of the email conversation you are referring to. If you would like to make a public request of my email correspondence, you can submit the attached form. Please include the name(s) of the other party."

This process and email exchange with the county clerk illustrates how they have made it extremely difficult for impacted residents to obtain this information and represents a clear attempt by the owner of the Proposed Mining Property and Sublette County to attempt to hide the details of the application from affected parties.

In addition, any objections to the mining application are due on September 7, 2024 (less than one month after the Notice was sent out) despite the very limited information provided in the Notice and the years of secretive work undertaken by Evans Construction to prepare the application.

It also appears that many property owners that were required to be notified did not receive the Notice. The Notice was not sent by certified mail so there is no way to prove the Notice was sent to or received by all affected property owners. When a number of neighboring property owners were contacted by other residents over the past couple of weeks, most of them said they were not aware of the mining application. Thus, these affected property owners were unaware of the proposed mining operation that will adversely impact their ability to enjoy their property.

While Evans Construction has had several years to hire professionals to create a misleading picture that the proposed mining operation will not have an adverse impact on the surrounding environment or nearby property owners, the secrecy of the process and the limited time available to file objections does not provide affected property owners sufficient time to object to this proposed mining permit. In this limited time period, one property owner has engaged an environment engineer to substantiate some of the false and misleading statements in the application, but we are sure there are other misleading statements in the application and these need to be thoroughly investigated prior to considering any expansion of mining operations at the Proposed Mining Property. Otherwise, neighboring property owners, including us, and the local environment (including wetlands and Dell Creek) will be irreparably harmed by this mining operation.

Sincerely,
Daniel Shefter and Lucyna Shefter
120 Dell Creek Rd, Bondurant, WY

Note: the following pages include a few recent pictures illustrating some of the points made in our letter.

Picture of Proposed Mining Property from Dell Creek Rd illustrating that the proposed mining operations would include wetlands and intersects Dell Creek. Existing gravel pit is already prone to runoff into wetlands and Dell Creek and proposed mining operation would represent a dramatic expansion of the size and scope of the operation.



Picture from September 1, 2024 showing herd of over 2 dozen Pronghorn grazing on the bench immediately adjacent to the Proposed Mining Property



Picture of current driveway to access gravel pit and site of Proposed Mining Property. Width of driveway was measured at 20 feet (not 25 feet) and is in very poor condition.



Picture of existing gravel pit taken on September 1, 2024 showing there are still large pools of standing water despite Bondurant experiencing one of the driest spring and summer on record. With normal rainfall, the size of the standing water pools would be much higher and spill over sections of the poorly maintained berms into wetlands and Dell Creek.



Picture of section of Dell Creek adjacent to Proposed Mining Property (which is on the left). Applicant has stated it would need to move existing electrical poles much closer to the road since proposed mining operation would include the area where the existing poles are installed. Moving them closer to the road would cause issues with winter snow plowing given the amount of snow received in this section of Bondurant generally results in snow piles on the side of the road that often exceed 10" in height and snowplows require a lot of room between the road and electrical poles to conduct safe plowing activity. Applicant did not provide any information that electric company was willing to move the poles or that WYDOT or Sublette County had signed off on relocation of the poles closer to Dell Creek Rd.



Picture of existing gravel pit operation showing how berms have large gaps that allow water to spill into wetlands and Dell Creek after significant precipitation events and during spring runoff.

