

Trout Unlimited

September 7, 2024

Wyoming Department of Environmental Quality
Administrator of the Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Dear Mr. Wendtland,

I am writing on behalf of Trout Unlimited regarding the WY Department of Environmental Quality's Notice of Small Mine Permit Application - Evans Construction Inc., TFN 7 1/193. We would like to request more time and more information to be able to adequately assess the potential impacts of the permit to fisheries and water quality in Dell Creek and the Hoback River.

TU is a private non-profit conservation organization with more than 330,000 members and supporters nationwide dedicated to conserving, protecting, and restoring North America's coldwater fisheries and their watersheds. Since 2016, TU's Snake River Headwaters Initiative has been dedicated to on-the-ground conservation projects in the Snake River and its tributaries, including the Hoback River and Dell Creek, out of recognition of the area as one of the last, best places for native cutthroat trout – a high elevation, cold water sanctuary that is arguably one of the most resilient and intact cutthroat trout fisheries in the lower 48.

We have been engaged in past research with the Wyoming Game and Fish Department (WGFD) that has established Dell Creek and the upper Hoback River in and around Bondurant as important overwintering habitat for resident and migratory native Snake River cutthroat trout and other native species, including mountain whitefish, bluehead suckers (Wyoming Species of Greatest Conservation Need), mountain suckers, sculpin, and dace. In addition, we are currently in the process of designing, planning, and funding an over \$2M fish passage project with the Little Jennie Ranch, located upstream of the project site, to remove and replace 6 diversions on Dell Creek and 2 diversions on Jack Creek for the sake of Snake River cutthroat trout migration, spawning, and rearing, and overall ecosystem resiliency (Dell Creek is identified in the WGFD's 2020 Statewide Habitat Plan as part of the Upper Hoback Aquatic Restoration priority area). Current and future project work also seeks to improve downstream water quality in the Hoback River watershed, out of recognition that the watershed has 53 stream miles designated as part of the National Wild and Scenic Rivers System, and additional stream miles designated as Wild and Scenic eligible.

We and our partners are therefore invested in the health of Dell Creek and the upper Hoback River. In a preliminary review of the Evans Construction permit application documents, we found that the overall analysis of risks to fisheries, aquatics, wetlands, and water quality, and associated mitigation measures to be insufficient or difficult to adequately review and determine. In particular:

- The seasonality of flow in the drainages within the permit area were based on the landowner's prior observations and one visit by a WDEQ staffer. The application states that mining will not occur in these areas when water is flowing. However, there is no information or plan for how this

will be implemented or verified. We would recommend a more thorough, 3rd party observation and hydrologic analysis of seasonal flows in the waterways within the permit area, to determine if additional actions are needed to protect resources. We would also recommend consultation with the US Army Corps of Engineers (USACE), given that the evidence of flow is entirely anecdotal.

- Due to the close proximity of the existing and future mine footprint to Dell Creek, we believe a consultation with the USACE regarding impacts to wetlands is warranted, to ensure that there are adequate buffers between Dell Creek and the proposed active mining area.
- We would also recommend that a 3rd party consultant perform turbidity / total suspended solid measurements at a reference site upstream and "affected site" downstream during active mining operations to document and address any increases in turbidity, as sedimentation of native fish spawning areas downstream of the project area is of concern.
- We recommend that any ponds that may be built following mining activities carry stipulations that they cannot be stocked with introduced / non-native fish species, given that this is a stronghold for native fisheries.
- We would like more information, analysis, and modeling to confirm that the settling pond capacity, including in the event of heavy rains, rapid snowmelt, and increased access to groundwater, is of adequate size to accommodate and treat the amount of runoff originating from within the mine area, especially considering the mining area is being proposed to be expanded.

Finally, we ask that moving forward, information about this permit application be made more transparent and accessible to the public. We were only made aware of this permit application in the past few days by concerned Bondurant-area neighbors, and many of the agency and nonprofit partners that we commonly work with had little to no information about the proposed project. Having to track down hard copies of the permit application at offices in Cheyenne, Lander, and Pinedale, without having an online option, has been a barrier to the public's review and comment process. Please consider an online download option in the future.

Thank you for your consideration of our comments.

Sincerely,

Leslie Steen Kole Stewart
Trout Unlimited Trout Unlimited
Wyoming State Director Snake River Headwaters Senior Project Manager



September 7, 2024

Wyoming Department of Environmental Quality
Administrator of the Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Dear Mr. Wendtland,

I am writing on behalf of Trout Unlimited regarding the WY Department of Environmental Quality's Notice of Small Mine Permit Application - Evans Construction Inc., TFN 7 1/193. We would like to request more time and more information to be able to adequately assess the potential impacts of the permit to fisheries and water quality in Dell Creek and the Hoback River.

TU is a private non-profit conservation organization with more than 330,000 members and supporters nationwide dedicated to conserving, protecting, and restoring North America's coldwater fisheries and their watersheds. Since 2016, TU's Snake River Headwaters Initiative has been dedicated to on-the-ground conservation projects in the Snake River and its tributaries, including the Hoback River and Dell Creek, out of recognition of the area as one of the last, best places for native cutthroat trout – a high elevation, cold water sanctuary that is arguably one of the most resilient and intact cutthroat trout fisheries in the lower 48.

We have been engaged in past research with the Wyoming Game and Fish Department (WGFD) that has established Dell Creek and the upper Hoback River in and around Bondurant as important overwintering habitat for resident and migratory native Snake River cutthroat trout and other native species, including mountain whitefish, bluehead suckers (Wyoming Species of Greatest Conservation Need), mountain suckers, sculpin, and dace. In addition, we are currently in the process of designing, planning, and funding an over \$2M fish passage project with the Little Jennie Ranch, located upstream of the project site, to remove and replace 6 diversions on Dell Creek and 2 diversions on Jack Creek for the sake of Snake River cutthroat trout migration, spawning, and rearing, and overall ecosystem resiliency (Dell Creek is identified in the WGFD's 2020 Statewide Habitat Plan as part of the Upper Hoback Aquatic Restoration priority area). Current and future project work also seeks to improve downstream water quality in the Hoback River watershed, out of recognition that the watershed has 53 stream miles designated as part of the National Wild and Scenic Rivers System, and additional stream miles designated as Wild and Scenic eligible.

We and our partners are therefore invested in the health of Dell Creek and the upper Hoback River. In a preliminary review of the Evans Construction permit application documents, we found that the overall analysis of risks to fisheries, aquatics, wetlands, and water quality, and associated mitigation measures to be insufficient or difficult to adequately review and determine. In particular:



- The seasonality of flow in the drainages within the permit area were based on the landowner's prior observations and one visit by a WDEQ staffer. The application states that mining will not occur in these areas when water is flowing. However, there is no information or plan for how this will be implemented or verified. We would recommend a more thorough, 3rd party observation and hydrologic analysis of seasonal flows in the waterways within the permit area, to determine if additional actions are needed to protect resources. We would also recommend consultation with the US Army Corps of Engineers (USACE), given that the evidence of flow is entirely anecdotal.
- Due to the close proximity of the existing and future mine footprint to Dell Creek, we believe a consultation with the USACE regarding impacts to wetlands is warranted, to ensure that there are adequate buffers between Dell Creek and the proposed active mining area.
- We would also recommend that a 3rd party consultant perform turbidity / total suspended solid measurements at a reference site upstream and "affected site" downstream during active mining operations to document and address any increases in turbidity, as sedimentation of native fish spawning areas downstream of the project area is of concern.
- We recommend that any ponds that may be built following mining activities carry stipulations that they cannot be stocked with introduced / non-native fish species, given that this is a stronghold for native fisheries.
- We would like more information, analysis, and modeling to confirm that the settling pond capacity, including in the event of heavy rains, rapid snowmelt, and increased access to groundwater, is of adequate size to accommodate and treat the amount of runoff originating from within the mine area, especially considering the mining area is being proposed to be expanded.

Finally, we ask that moving forward, information about this permit application be made more transparent and accessible to the public. We were only made aware of this permit application in the past few days by concerned Bondurant-area neighbors, and many of the agency and nonprofit partners that we commonly work with had little to no information about the proposed project. Having to track down hard copies of the permit application at offices in Cheyenne, Lander, and Pinedale, without having an online option, has been a barrier to the public's review and comment process. Please consider an online download option in the future.

Thank you for your consideration of our comments.

Sincerely,

Leslie Steen
TU Wyoming State Director

Kole Stewart
TU Snake River Headwaters Senior Project Manager