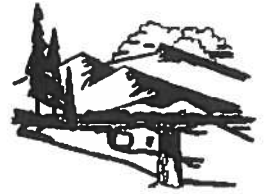




# Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Matthew H. Mead, Governor

Todd Parfitt, Director

August 8, 2014

Nicole Krieger, Esq.  
Hess D'Amours & Krieger, LLC  
30 East Simpson St.  
P.O. Box 449  
Jackson, WY 83001

CERTIFIED – RETURN RECEIPT REQUESTED

Re: RST Excavation

Dear Ms. Krieger:

This letter is in response to your letters, dated, May 2, 2014 and May 30, 2014, regarding the Seherr-Thoss gravel operation (RST Excavation) located in the NE¼ of Section 19, T40N, R116W, approximately five (5) miles south-southwest of the Teton County Clerk's Office in Jackson, Teton County, Wyoming. In those letters, you alleged that RST Excavation was violating the Wyoming Air Quality Standards and Regulations and requested that the Wyoming Department of Environmental Quality (DEQ) take prompt action, pursuant to W.S. 35-11-701, to investigate your claims. Below is a summary of the actions related to RST Excavation's operations DEQ has taken since May of this year.

The Air Quality Division (AQD) of DEQ attempted to conduct an onsite inspection of RST Excavation's operation on May 8, however inclement weather made travel to the site impossible that day and the inspector was forced to turn back. On May 13, 2014, the inspector did visit the site and performed a visual inspection of RST Excavation's operations. The Air Quality Division found no evidence of fugitive emissions problems resulting from either the gravel pit or pit operations. AQD's inspector observed several truck loading events, but did not see any excessive fugitive dust. He also inspected existing crushing/screening equipment to determine if dust controls were installed and operational. The existing rock crusher was equipped with a water spray system to control fugitive dust, though it was not operating at the time of the inspection. RST Excavation informed the Division that the crusher had not been in operation during 2014.

Subsequent to the Air Quality Division's inspection, the Wyoming Supreme Court issued an opinion on appeal of an Order issued to RST by the Teton County Board of County Commissioners. *See, Roger Seherr-Thoss v. Teton County Bd. Of Comm'rs.* 2014 WY 82 (Wyo. 2014). The Court's opinion held that "RST Sand and Gravel has a vested right to expand their gravel operation...without unauthorized regulatory interference from the County, provided that they comply with other applicable laws, such as the EQA and DEQ's regulations." *Id.* at ¶53. Based upon the Court's determination, the Division advised Mr. Seherr-Thoss that the agency was legally entitled to proceed with processing a permit application for his existing operations. The Division received a permit application from RST Excavation in late June and is currently drafting an analysis of the application. The New Source Review (construction/modification) permitting group informed me that they will complete their analysis shortly and will publish the Division's determination for public comment by the end of this month. In accordance with the Division's permitting regulations, the Division will hold a public hearing regarding this permit application at the end of the 30-day comment period. The Division will publish notice requesting public comment and providing information about the public hearing in the Jackson Hole News, among other news outlets, at the start of the public comment period.

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

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|----------------|-----------------|----------------|-------------------|----------------|-----------------|----------------|
| ADMINISTRATIVE | ABANDONED MINES | AIR QUALITY    | INDUSTRIAL SITING | LAND QUALITY   | SOLID HAZ WASTE | WATER QUALITY  |
| PHONE 337-1111 | PHONE 337-1111  | PHONE 337-1111 | PHONE 337-1111    | PHONE 337-1111 | PHONE 337-1111  | PHONE 337-1111 |
| FAX 337-1111   | FAX 337-1111    | FAX 337-1111   | FAX 337-1111      | FAX 337-1111   | FAX 337-1111    | FAX 337-1111   |



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In addition to the actions taken since May, AQD is planning at least one more site inspection this year. Once the Air Quality permit is issued, additional visual monitoring and fugitive dust mitigation will be required and AQD inspectors will conduct periodic announced and unannounced inspections to determine compliance with the permit requirements.

I appreciate your interest in and concern for Wyoming's air quality. If you have any further questions or concerns, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Steven A. Dietrich". The signature is written in a cursive style with a large, prominent initial "S".

Steven A. Dietrich  
Administrator  
Air Quality Division

cc: Roger Scherr-Thoss  
Fred DiLella  
Elizabeth Lyon  
Tony Hoyt  
Jeff Wendt