

O P I N I O N

Gravel pit would harm 500 households

The Seherr-Thoss gravel quarry is once again in the spotlight. Despite a valid court order limiting the operation to 3 acres and processing no more than 17,000 tons of gravel annually, Mr. Seherr-Thoss has demanded that the Wyoming Department of Environmental Quality approve a permit to allow him to expand his operation over 12-fold to nearly 37 acres with no limit on the volume of processing. If allowed, this would have a damaging impact on the quality of life of the 500 households that surround this illegally expanded operation.

On Sept. 5, despite the fact that the case is pending before the Wyoming Supreme Court, and despite the fact that there is a valid court order in place that clearly limits the gravel operation, Mr. Seherr-Thoss's attorney, Peter Moyer, sent a letter to the DEQ requesting that it process an application for a 37-acre small mine permit. This permit had previously been put on hold pending the outcome of the county proceedings. As Deputy County Attorney [Keith] Gingery stated: "Nobody talked to us before they started it up again. I don't understand why in the world they would just do that without talking to us first."

As the basis for his demand, Mr. Moyer advised the DEQ that there are no legal grounds to hold the permit, that it needs to be treated the same way permits for the Evans gravel operation have been treated. Notably absent from Mr. Moyer's letter was the fact that the Evans pit is an approved gravel mine under the Teton County land development regulations, whereas the Seherr-Thoss pit is not. Even more disturbing, Mr. Moyer failed to advise the DEQ that there is a district court order in place prohibiting mining at the levels requested in the application and that this very issue is on appeal to the Supreme Court.

Some background: In the summer of 2011, after many years of unsuccessful efforts by the county to bring the Seherr-Thoss gravel operation into compliance with county regulations, the Teton County Board of Commissioners conducted a three-day contested case hearing. The goal of the hearing, which was presided over by an independent hearing officer, was to determine what was and was not allowed at the gravel operation, both under the Teton County LDRs and Wyoming law. Mr. Seherr-Thoss and the county presented witnesses and evidence, and the board reviewed over 100 exhibits.

The evidence at this hearing showed that, although the Seherr-Thoss gravel mine existed prior to 1978 when the first LDRs were enacted, it existed only seasonally and on a very small scale. The board also concluded that the quarry had failed to pay state mineral severance taxes for over 20 years, crushed gravel for 30 years without any of the required permits, and had illegally expanded without the required county approvals and permits. Hearing Officer Shannon Rose concluded that "Seherr-Thoss' operation was relatively small and more than likely he thought he could operate 'under the ra-

dar' and not have to obtain permits or pay taxes."

The board ordered that the Seherr-Thoss quarry is "grandfathered but only to the scope and degree of his gravel business at the time of the enactment of the LDRs in 1978." Basically, even though the operation would be prohibited under current regulations, it can remain at the scope and scale it was operating when the regulation came into effect. Specifically the board restricted the volume of gravel processing to 17,000 tons annually (some 5,000 truck trips a season and approximately 300 percent more than was being extracted prior to 1978). The board also limited the operation to a footprint of 3 acres (again, a generous 300 percent increase from his pre-1978 presence). The board also limited operating hours to prohibit gravel operations in the evenings and on weekends.

Mr. Seherr-Thoss appealed the board's order to district court. He lost that appeal. In January 2013, Judge Tim Day affirmed the commissioners' order in its entirety. The order remains in effect today, although he has appealed it to the Wyoming Supreme Court. The county and Seherr-Thoss have submitted all final briefs, and the case is scheduled for oral arguments.

We, as residents of the Melody Ranch subdivision, are concerned about the effects on our neighborhood. Gravel extraction and processing has significant adverse impacts, notably noise, particulate air pollution and heavy truck traffic. The residents of Teton County have the right to the peaceful and safe enjoyment of their homes. Seherr-Thoss's permit application, if approved, would expand the mine 12-fold. It would place no limits on the amount of gravel extraction that occurs on his site, raising real concerns that our neighborhood will suffer. Issuance of the requested permit would result in no controls on volume, no local control on times of operations, and no local oversight at all.

For 18 years our residents have been very patient while this process has played out, but this latest attempt to outsmart the DEQ and the courts is worrisome. The DEQ is now processing this permit and is accepting public comment until Dec. 6. The public needs to weigh in and request that the permit be denied.

We are extremely grateful for the evenhanded, consistent and fair approach of Teton County in this matter. We are not asking that Mr. Seherr-Thoss's operation be shut down. We are simply asking that he be required to abide by the court's order until such time as the Supreme Court rules. All of Teton County stands to benefit by letting this process continue through the courts and keeping regulatory authority with our local county government.

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In addition to Rich Bloom, Bob Hammond, Kristine O'Brien, Nancy Hoffman and Mark Heineken — members of the board of directors of the Meadows of Melody Ranch Homeowners Association, co-authored this piece.

GUEST SHOT*Rich Bloom*