

The Meadows of Melody Ranch
Homeowner's Association
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November 4, 2013

Dear Neighbors:

The Roger Seherr-Thoss (Seherr-Thoss) gravel operation next to Melody Ranch has applied to the Wyoming Department of Environmental Quality (DEQ) for a permit for a more than 12-times bigger gravel operation (from 3 to 37 acres). If allowed, this will have a major negative impact on Melody Ranch residents. Objections must be sent to the DEQ before December 6, 2013.

In brief: An attorney representing Mr. Roger Seherr-Thoss, whose property abuts Melody Ranch, convinced the Wyoming DEQ, on the basis of incomplete and misleading information, to process an application for a 37-acre gravel operation. The DEQ had previously put this permit on hold pending confirmation from local authorities that the operation is compliant with local land use regulations. It is surprising that the DEQ accepted the application because there is a Final District Court Judgment in place limiting the size and conditions of the gravel operation to a three-acre footprint and capping extraction levels at 17,000 tons per year. This is what the County had determined in 2011 was lawfully "grandfathered" and allowed to continue. This case is now on appeal to the Supreme Court. For those interested, an appendix with a longer, more detailed history follows.

The HOA Board is concerned about the pernicious effects of particulate air pollution that would result from a large-scale, gravel operation next door, 12 times the current level. Noise and heavy truck traffic would be a nuisance that would adversely affect us all, again at 12 times the current level. And rather than this being regulated by Teton County, the sole source of regulation under Seherr-Thoss's applied for permit would be by the State DEQ, whose nearest office location is three hours away in Lander. None of this would be good for the neighborhood we enjoy so much, or for our property values.

The HOA and its legal counsel are engaging in discussions with the County, the DEQ, and the Wyoming Attorney General's Office to represent homeowners' interests. The County is taking the lead, as it seeks to protect the health and safety of Teton County residents.

Written objections from interested parties (neighbors and Melody residents) must be received by December 6. Otherwise, the permit could go through. Grounds to deny the permit are what one would expect: Would the operation cause a public nuisance and/or endanger public health and safety?

We have been in touch with DEQ and all objections must contain the following:

All objections must be in writing and mailed (no email). All letters must be signed, and please include your contact information.

Address to:

Administrator of the Land Quality Division of the DEQ
Herschel Building
122 West 25th Street
Cheyenne, WY 82002

In subject line of letter write: Objecting to Seherr-Thoss Sand & Gravel Small Mine Permit

In the letter, it is recommended to open with "I am objecting to the issuance of the Seherr-Thoss Sand & Gravel Small Mine Permit."

It is very likely that this permit will be heard by the Wyoming Environmental Quality Council at a formal contested case hearing. All persons objecting have the right to participate in that hearing. If you would like to be included in the hearing process, you must state so in your letter.

Any questions for the HOA can be emailed to Demerie Northrop at dnorthrop@wyom.net.

The Board is happy to answer any questions about the details of the process.

Meadows of Melody Ranch Homeowners Association board of directors –
Rich Bloom, Bob Hammond, Kristine O'Brien, Nancy Hoffman and Mark Heineken

Appendix

History (you can skip this part, if you wish)

- Pre 1978: Small, one-acre, seasonal gravel operation on Seherr-Thoss property.
- 1978: First Land Development Regulations (LDRs) come into effect. The Seherr-Thoss ranch is zoned Rural-Residential, prohibiting gravel operations. Between 1978 and 1994 the gravel operation continued to operate, but was small and under the radar.
- 1994: New LDRs enacted, gravel operation still prohibited under new zoning laws.
- 1995: County first becomes aware of gravel operation and engages in discussions regarding the use of the property, trying to determine if the gravel operation is a lawful, nonconforming or “grandfathered” use of the property under the LDRs.
- 1995-2010: Efforts by Teton County to force Roger Seherr-Thoss to comply with local regulations and to obtain necessary permits fail. It is determined that Seherr-Thoss is operating without required permits for his gravel crushers, failed to pay state taxes on his gravel for many years, and has illegally expanded.
- June 2010: Teton County Planning director issues a Notice to Abate ordering Roger Seherr-Thoss to cease gravel crushing and extraction and to reduce his screening and stockpiling to pre-1978 levels. Roger Seherr-Thoss refuses to abate and Seherr-Thoss appeals this Order to the Board of County Commissioners
- June 2011: A three-day, contested case hearing before the Board of County Commissioners and an independent hearing officer is conducted to determine whether the gravel operation is in compliance with the LDRs.
- November 2011: The Teton County Board of County Commissioners, after having reviewed all of the evidence presented by both the Planning Department and Seherr-Thoss, concludes that the gravel operation was a grandfathered (or prior nonconforming) use under the LDRs, but only to the scope and degree that Seherr-Thoss was operating his gravel business at the time of the enactment of the LDRs in 1978. **The Board orders Seherr-Thoss to reduce his gravel operation to three acres, including all area used for extraction, screening, stockpiling and crushing, and to reduce his volume of extracted gravel to 17,000 tons per year. He is also ordered to limit his hours of operation to 7am-5pm, Monday through Friday.**
- December 2011: Seherr-Thoss appeals this decision to the District Court of Teton County
- January 2013: After reviewing briefs from the County and Seherr-Thoss and hearing extensive oral argument, **the District Court affirms the Board of County Commissioner’s Order limiting Seherr-Thoss’s gravel operation.**
- February 2013: Seherr-Thoss appeals this decision to the Wyoming Supreme Court. This case is pending. In the meantime, the Seherr-Thoss gravel operation is subject to this final District Court judgment limiting the size and conditions of its operation.

- October 2013: DEQ begins to process an application for a 37-acre gravel operation for Seherr-Thoss. This application had been submitted by Seherr-Thoss in 2010, but DEQ had refused to process the application until it received confirmation that the operation was in compliance with local land use regulations. DEQ decided to resume processing this application after it received incomplete and inaccurate information from attorney Peter Moyer (acting on behalf of Mr. Seherr-Thoss), arguing that DEQ was required to process the permit because it has issued permits for the Evans gravel pit, which is also grandfathered. Mr. Moyer failed to advise DEQ about the current court order limiting the Seherr-Thoss operation, and likewise failed to advise DEQ that that the Evans pit is specifically permitted under the LDRs, while the Seherr-Thoss pit is not.
- Present through December 6, 2013: DEQ will accept public comment as set forth above.