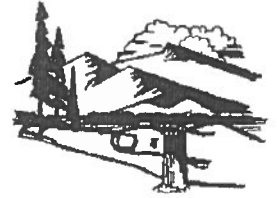




Department of Environmental Quality

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

December 9, 2013

Mr. Roger Seherr-Thoss
R S T Sand & Gravel
PO Box 1654
Jackson, WY 83001

Re: R S T Sand & Gravel Small Mining Permit Application to 951ET- TFN 5 2/161

Dear Mr. Seherr-Thoss

The Wyoming Department of Environmental Quality, Land Quality Division has received nearly one hundred letters objecting to the Department's proposed approval of your application for a small mine permit to mine gravel at 4520 South Park Loop Road in Teton County, Wyoming. Based on the objections received and for the reasons set forth below, the Department denies your application for a small mine permit.

Many of the objections the Department received urged the Department to deny your permit application under Wyo. Stat. Ann. § 35-11-406(m)(iii), on the grounds that "the proposed operation ... or the proposed future use is contrary to the law or policy of this state[.]" More specifically, the objections directed the Department's attention to the decision in *Seherr-Thoss v. Teton Cnty. Bd. of Cnty. Comm'rs*, no. 15970 (Wyo. 9th Jud. D. Jan. 30, 2013). As the objections explained, in that case the Ninth Judicial District Court of Wyoming affirmed the decision of the Teton County Board of Commissioners that, under Teton County's Land Use and Development Regulations, your gravel mine operation is limited to three acres of surface disturbance. The objections further stated that Teton County's local land use laws are a "law or policy of the state" within the meaning of Section 406(m)(iii) and that, in light of the District Court's decision, the Department should deny your application under Wyo. Stat. Ann. § 35-11-406(m)(iii) because it proposes more than three acres of surface disturbance.

The Department finds these objections to be persuasive. Accordingly, the Department denies your application for a small mine permit under Wyo. Stat. Ann. § 35-11-406(m)(iii) because the proposed operation would be contrary to the Teton County Land Use and Development Regulations, according to the District Court decision in *Seherr-Thoss v. Teton Cnty. Bd. of Cnty. Comm'rs*, no. 15970 (Wyo. 9th Jud. D. Jan. 30, 2013).



The Department invites you to submit a revised application that proposes an operation conforming to local land use laws. You may also seek review of this decision before the Wyoming Environmental Quality Council.

Sincerely,



Todd Parfitt
Director
Department of Environmental Quality



Nancy Nuttbrock
Deputy Director
Department of Environmental Quality
Administrator, Land Quality Division

CC: All parties who submitted written objection to the proposed permit
Jim Ruby, Executive Secretary, Wyoming Environmental Quality Council
Jeremiah Williamson, Staff Attorney, Attorney General's Office
Todd Parfitt, Director, Department of Environmental Quality
Tanya King, Land Quality Division, District II Supervisor