

# Blue Ridge Environmental Defense League

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November 4, 2019

S. Daniel Smith, Director  
Division of Energy, Mineral and Land Resources  
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## **RE: Carolina Sunrock LLC's application for a mining permit for a crushed stone mining operation located near Prospect Hill in Caswell County.**

Dear Mr. Smith:

On behalf of the Blue Ridge Environmental Defense League, I write to provide a preliminary analysis of the pending application for a mining permit in Prospect Hill. This letter and oral testimony delivered today by BREDL Community Organizer Marvin Winstead at the public hearing in Yanceyville will be followed by further information on or before the November 14<sup>th</sup> public comment deadline.

As you know, in 2017 the state's rules for mining were radically altered to allow perpetual permits for mining, both for new operations and for modifications of existing operations. The changes eliminated the ten-year expiration date for rock quarry permits.<sup>1</sup>

Section 13(a) of House Bill 56 made the following changes:

~~(d) An operating permit shall be granted for a period not exceeding 10 years. If~~  
Except as provided in subsection (d1) of this section, permits for mining  
operations shall be issued for the life-of-site of the operation unless revoked as  
otherwise provided under this Article. For purposes of this section, "life-of-site"  
means the period from the initial receipt of a permit from the operation until the  
mining operation terminates and the reclamation required under the approved  
reclamation plan is completed prior to the end of the period, the permit shall  
terminate completed. Termination of a permit shall not have the effect of  
relieving the operator of any obligations that the operator has incurred under an  
approved reclamation plan or otherwise. Where the mining operation itself has  
terminated, no permit shall be required in order to carry out reclamation  
measures under the reclamation plan.

N.C.G.S. §74-50(d) (n.b., Underlined text is new language adopted. ~~Strike-out text~~ is language removed from existing law.)

Further, HB 56 also eliminated the requirement for public hearings for mining permit modifications.

<sup>1</sup> See North Carolina Session Law 2017-209, Section 13. Ratified October 4, 2017

A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

#### N.C.G.S. § 74-51

These ill-advised changes in the law, vetoed by the Governor but overridden by the legislature, have created a virtually lawless mining permit scheme in North Carolina.

Therefore, pursuant to denial criteria listed under G.S. 74-51 of The Mining Act of 1971, we hereby call for the likewise unlimited assessments of the track records of mining companies. In this, Sunrock must be held accountable, by you, the Director of the Division of Energy, Minerals and Land Resources, and, in the extant case, the Caswell County Board of Commissioners. Toward these ends, I submit two examples on the track record of the operations of Carolina Sunrock, LLC.

#### (1) Woodsdale Quarry

Changes of 1,000 feet in the location of Carolina Sunrock's asphalt plant located near its Woodsdale Quarry in Person County were, according to a Sunrock's attorney, "not a major modification to the original plan."<sup>2</sup> In a legal brief filed by residents, the new location was "closer to people's homes than is shown on the plans approved in 2006."<sup>3</sup>

#### (2) Butner Quarry

A wrongful dismissal of an employee was prompted by a breach of contract claim at Carolina Sunrock's quarry in Butner, North Carolina. Bryan Pfohl was the owner and President of Carolina Sunrock. Daniel, an office employee who had always received good reviews from her supervisors, was subpoenaed to produce company personnel records and to testify on behalf of a former plant superintendent who was suing Sunrock for breach of contract.

"Upon learning of the subpoena, Mr. Pfohl told plaintiff not to say anymore than she had to when testifying and to 'remember that you work for me and represent me and my company.' Plaintiff took Mr. Pfohl's comments as a threat, pressuring her to alter her testimony, if need be, to advance the company's best interests."<sup>4</sup>

After informing her superiors of the subpoena and her intention to testify honestly, her working conditions deteriorated significantly. Eventually, she was moved to an office with no phone and no heat, the increasingly abusive treatment causing emotional distress

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<sup>2</sup> "Land use foes spar," The Courier-Times, August 9, 2017

<sup>3</sup> *Tunnel Creek Farm, LLC v. County of Person, Hall's Agribusiness, LLC, and Carolina Sunrock, LLC*, North Carolina Superior Court, 17 CVS 126 (2017)

<sup>4</sup> *Daniel v. Carolina Sunrock Corp.*, 430 S.E.2d 306 (1993), 110 N.C. App. 376

leading up to her being fired.

The examples noted above show that the loss of control wrought by the legislative change in permitting may lead to unforeseen consequences including negative impacts on community health, well-being and livelihood.

In conclusion, the Division cannot approve the mining permit unless and until it determines that the problems identified here, and in subsequent cases, will never occur at the proposed Prospect Hill site.

Respectfully,

A handwritten signature in black ink, appearing to read "Louis A. Zeller", followed by a horizontal line extending to the right.

Louis A. Zeller

Attachments:

“Land use foes spar,” *The Courier-Times*, August 9, 2017

*Tunnel Creek Farm, LLC v. County of Person, Hall’s Agribusiness, LLC, and Carolina Sunrock, LLC*, Superior Court, 17 CVS 126 (2017)

*Daniel v. Carolina Sunrock Corp.*, 430 S.E.2d 306 (1993), 110 N.C. App. 376