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Citizen Group Sues To Appeal Weld County Commissioners' Approval Of Martin Marietta Asphalt Facility

GREELEY, Colo., September 15, 2015—Today, a coalition of eight neighboring homeowners and businesses served the Weld County Commissioners with a lawsuit filed in Weld County District Court to challenge the Commissioners' August 12, 2015 approval of Martin Marietta Materials' plan to convert agricultural land near the intersection of County Road 13 and US-34 into a massive industrial complex. The North Carolina-based Fortune 1000 company intends to convert more than 100 acres of productive agricultural land into an asphalt plant capable of producing 450,000 tons of asphalt per year, a concrete plant capable of producing 800,000 tons of concrete per year, and a new rail spur capable of receiving 121-car trains full of aggregate and other materials from a Martin Marietta-owned quarry in Wyoming. At full build out, the proposal will potentially operate twenty-four hours per day seven days per week and will result in 2,260 trucks entering and exiting the site every single day. The appeal challenges that the proposed use violates existing zoning laws, fails to protect the health and safety of surrounding residents, and ignores the community's near-universal opposition.

"It's important that these types of decisions be evidence-based," said plaintiff and nearby homeowner David Kisker. "The Weld County Code specifies several detailed criteria that are to be the basis of land use decisions. The Commissioners' consideration of irrelevant political factors is completely inappropriate. The fact that the Commissioners essentially ignored the community's collective input regarding compatibility with the current and future uses in the neighborhood, as well as the requirement to protect the health, safety and welfare of the surrounding businesses and residents, leads to the conclusion that the decision was inappropriate and should be reversed."

The Commissioners approved Martin Marietta's plan over the recommended denial of the Weld County Planning Department Staff, a vote in opposition by the Weld County Planning Commission, unanimous opposition from the surrounding communities of Johnstown, Windsor, Greeley and Larimer County, and the objections of hundreds of nearby residents and businesses. This substantial and diverse opposition stems from the fundamental incompatibility between the proposed use and the existing residents, farms, and businesses within close proximity to the proposed site. The grassroots opposition presented exhaustive evidence to both the Weld County Planning Commissioners on July 21, 2015, and to the Commissioners' themselves during a 14-hour hearing on August 12, 2015, that the proposal will have a significant negative impact on air, water, and soil quality and will result in substantial noise, traffic, and undesirable odors. If the proposal moves forward, it will dramatically infringe upon the property rights of nearby single-family homeowners and is expected to force many surrounding businesses, including an organic farm and a rustic-themed wedding and event facility, to close or relocate.

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Despite these objections, the Commissioners placed unsubstantiated and irrelevant political considerations above the health, safety and welfare of their own constituents and land users in neighboring Larimer County. The Commissioners approved the proposal without ever having visited the proposed site. Unwilling to roll over to outside moneyed interests, a coalition of concerned residents and businesses filed suit to challenge this decision on September 9, 2015. The lawsuit seeks the reversal of the Commissioners' approval and a declaration that Martin Marietta Materials' proposed use is unlawful under the prevailing land use regulations.

Among other procedural irregularities set forth in the lawsuit, the Plaintiffs focus on Commissioner Julie Cozad's previous employment with a consultant that helped to shepherd Martin Marietta's application through the approval process. The Plaintiffs claim that it was inappropriate that Commissioner Cozad did not disclose this conflict of interest. Commissioner Cozad did not recuse herself and voted to approve the application.

The County was served with the lawsuit on Tuesday, September 15, 2015.

Those who want to assist in protesting the Martin Marietta Asphalt Facility should visit <http://clr-34.org/>.

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