

Greater Maple Valley Unincorporated Area Council
P.O. Box 101
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December 11, 2013

Jerome Cruz
Washington State Department of Ecology
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Subject: Landsburg Mine Cleanup Action Plan October 11, 2013, Consent Decree

Mr. Cruz,

We have reviewed the subject Decree and its Exhibits and offer the comments herein. While we find the plan has merit in the short term, there remain several long-term concerns.

Given the history of the site, we remain concerned with the degree of contamination resulting from up to 5,000 drums (~450,000 gal) of toxic waste which were dumped into the partially mined seam, then overfilled with construction debris fill.

Although DOE considers its monitoring wells as “early warning” systems, it has no specific treatment system in place should specific toxic materials be detected. Solely relying on industry-standard methods to cleanup such materials does not constitute a sufficient plan. Monitoring groundwater indefinitely is not the same as a commitment to ensuring eventual public health and safety.

The contingency plan includes groundwater treatment with infrastructure facilities at the north and south portal areas to contain, treat, and dispose of contaminated groundwater should it be detected at the Site. However, DOE and the Potentially Liable Parties (PLPs) are assuming a “bathtub” containment, i.e., nothing should escape the seam and migrate to private wells, the water table, the Cedar River, or Rock Creek.

The long-term liability of the responsible PLPs is questionable. The subject Decree specifies “indefinite” funding, which the courts have interpreted as “temporary” [U.S. v. Pieter van den Berg, 5 F.3d 439 (9th Cir. 1993)]. Because the in-ground contamination is potentially a very long-term problem, such language does not guarantee sufficient cleanup and remedial funding will be there when needed. Consequently, we request the subject Decree expressly address increase in or refunding of the PLP source of such funds (i.e., bond or other guarantee) over time to continue with the long-term effectiveness of the proposed employed measures. In fact, what mechanisms are being put in place to ensure “replenishment” of funds as they are exhausted? Without such mechanisms and their enforcement, what is the subject Decree buying the State and the Public?

Finally, the lack of specific plans, should monitoring show major leakage of contaminants, leaves the Public without clear recourse.

We request the subject decree be modified to address these issues of concern.

Thank you.

Sincerely,

Steve Hiester
(hies_skel@hotmail.com)
Chairman, Greater Maple Valley Unincorporated Area Council

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