

Greater Maple Valley Unincorporated Area Council
P.O. Box 101
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May 12, 2014

To: Mr. Joe Wilcox
John Henry No. 1 Mine Team Leader
Office of Surface Mining, Reclamation and Enforcement (OSMRE)
1999 Broadway, Suite 3320
Denver, CO 80202-3050

Re: Proposed Significant Revision of Permit WA0007D for Resumption of Coal Mining at Pacific Coast Coal Company's John Henry No. 1 Mine;
and Proposed Renewal of Permit WA0007D

INTRODUCTION

The Greater Maple Valley Unincorporated Area Council (GMVUAC) represents over 18,000 citizens living in the unincorporated area in which the proposed reopening of the subject mine is located. We have significant problems with the subject revision and renewal of permit which propose resuming mining at the John Henry Number 1 Mine site.

The mine closed down in the late 1990's, when the price of coal dropped and higher quality coal with less contained pollutants was preferred by end-use customers. The last permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) was in 2006 on the premise active mining would be resumed, which, in fact, did not occur.

While for all intents and purposes the mine has been closed, and a large part of it is flooded with water forming a lake, the company has maintained mining has just "paused." The primary reason for this seems to relate to their Bureau of Mines Reclamation Plan, where, should it call for "closure," it would then be required to implement expensive and time-consuming reclamation.

It appears clear the subject revision and renewal of permit has more to do with continuing to avoid implementation of said reclamation, than any real interest in, or significant change in, economic conditions regarding mining relatively low grade coal. In fact, the economic case for coal of any quality is worse than in the 1990s when the mine last operated.

However, if, in fact, the company truly intends to resume mining, there are several concerns we have enumerated and detailed herein. In addition to these concerns, there are assumptions and oversights in data, incomplete information, inaccurate hydrological information, and inadequate environmental assessments that could have major effects on public health and safety, as well as our natural environment.

CONCERNS

Current Situation

During the eight-year interim from 2006 to 2014, plans for this region have altered significantly. The City of Black Diamond, which shares and abuts the mine site, has contracted with YarrowBay for two Master-Planned Developments (MPDs) totaling 6,050 residences to be built within its city limits. There are 1,250 residences (homes and apartments) slated for development in the Lawson Hills MPD, which is directly adjacent to and shares the same ecosystem with the subject mine.

The Environmental Assessment (EA) at p. 47, sect. E, states: "Large-scale residential development within Black Diamond is scheduled but is not expected to begin for several years and most likely after the John Henry mine is reclaimed." With no decisive starting date for the startup of mining, with no date determined for the shutdown of mining activities, with no date determined for reclamation to begin, and with no date given when reclamation is to be completed, we question this assumption, as it directly conflicts with the 2010 MPD Ordinances passed by the City of Black Diamond and the 2011 Development Agreements between the City and YarrowBay for the 6,050-residence MPDs.

Lake Sawyer

The EA at p. 15, sect. A, states: "Lake Sawyer is a lake adjacent to the City of Black Diamond that offers significant recreational and other

values to the local community." This statement fails to acknowledge Lake Sawyer was annexed into the city limits of Black Diamond 16 years ago in 1998, and, as such, is now subject to urban zoning of greater density that will directly affect surface water runoff. This is particularly important to recognize because of plans on the part of YarrowBay to build 4,800 residences in the Villages MPD within the Lake Sawyer ecosystem. Permits for Phase 1 of this development were issued by the City of Black Diamond in 2013 and in early 2014 land clearing took place covering 100's of acres for the first 780 residences. Phase 2 permits for both MPDs for over 500 units currently are in review by the City of Black Diamond.

We have concerns mining activities will adversely affect the downstream drainages in the Lake Sawyer watershed. Information on drainage control and the mining plan are vague and unclear. The drainage map should be redrawn to better clarify settling ponds, drainage to Mud Lake Creek and Ginder Creek (in addition to their respective wetlands). Although Section 6.2 of the Permit Application Package discusses the surface water resources, it must be recognized and documented that the mining area is located in three subwatersheds: Ginder Lake, Mud Lake, and Lake No. 12. Ginder Lake and Mud Lake both drain to the west via correspondingly named creeks, eventually flowing to Rock Creek and then into Lake Sawyer. Lake No. 12 is situated directly east of and abuts the permit area and discharges to the east through a wetland area, eventually flowing to the Green River.

The phosphorous level on Lake Sawyer has been and continues to be a major concern. Phosphorous loading has been studied since the 1970's to preclude degradation of water quality. The EA states: "...determined from the model that phosphorous loading from the John Henry Mine is higher during periods of active mining." This could radically harm the surface water and resultant watersheds in surrounding lakes, creeks, and water tables, especially with Palmer Coking Coal Company operating a 220-acre sand and gravel mine that is located less than a mile to the west of the permit boundary.

In addition, the EA claims: "Impacts to the volumes of the surface water flows are estimated to be minimal." Where is the justification and data for such an assessment?

Water Flooding the Site

Hundreds of millions of gallons of water will have to be removed from the site to access any potential coal deposits. The company must explain how they plan to deal with this massive quantity of contaminated water. The condition of the water and the kinds of contaminants present were not identified. How will they be dealt with? What is the plan to remove this huge volume of water? To where will this water be drained? How will it affect the land to which it is drained? What will protect residents--and their private wells--of the immediate area? What is the plan for monitoring water quality, the massive discharge, the effect on neighboring wells?

As a result of the nearby Landsburg mine, our constituents, most of who are served by private wells, remain concerned about impacts to their drinking water. How will neighboring residents be guaranteed their water quality? These questions and more must be answered sufficiently to even consider reopening the mine. Plus, all necessary permits must be applied for and thoroughly reviewed and vetted.

Drainage Basins and Water Resources

The analysis presented in the Cumulative Hydrologic Impact Assessment (CHIA) fails to reasonably and accurately assess the material damage to the hydrologic balance of affected drainage basins and public water resources outside the permit area as required by law and generally described in the CHIA sect. 1.1.1 through 1.3, inclusive.

We also take issue with the OSMRE Regional Office's definition of what constitutes "material damage to the hydrologic balance outside the permit area" set forth in the CHIA, at p. 2. This term is critically important because under Section 510(b)(3) of the Surface Mining Control and Reclamation Act (SMCRA), OSMRE cannot approve a permit application unless the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The discretionary metric used by the OSMRE in its evaluation of "material damage" is whether "any quantifiable adverse impact from surface coal mining and reclamation operations on the quality or quantity of surface water or groundwater...would preclude any existing or reasonably foreseeable use of surface water or groundwater outside the permit area." CHIA, at p. 2, sect. 1.1.2.

Thus, OSMRE will determine that "material damage" occurs only where any existing or reasonably foreseeable use is in fact prevented by the discharge from the John Henry Mine. This standard employed by the OSMRE in its review of the subject permit revision and renewal requests and related information is far too narrow with respect to the control of water pollution and is inconsistent with and fails to recognize and implement Washington State's legislative policy regarding the control of all pollutants entering our public waters in order "to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, [and] the propagation and protection of wild life, birds, game, fish and other aquatic life...[with the objective] to retain and secure high quality for all waters of the state." Revised Code of Washington (RCW) 90.48.010 (applies to both surface water and groundwater).

Material damage would thus exist where the discharge from the John Henry Mine would in any way fall short of meeting the foregoing stated

State policy. See also RCW 90.48.080 (discharge of any organic or inorganic matter into waters of the state that shall cause or tend to cause pollution of such water in the determination of the Department of Ecology); RCW 90.48.020 (defines pollution "to mean such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters"). To this end, "regardless of the quality of the water of the state to which wastes are discharged or proposed for discharge, and regardless of the minimum water quality standards established by the [Department of Ecology] for said waters, [all] wastes [are required] to be provided with all known, available, and reasonable methods of treatment prior to their discharge or entry into waters of the state." RCW 90.52.040.

Rather than allowing "material damage" to occur, thereby precluding existing or reasonably foreseeable uses, Washington State surface water quality standards set forth in Ch. 173-201A Washington Administrative Code (WAC) that are designed and intended to protect and enhance existing and potential uses, WAC 173-201A-010(4), coupled with our State anti-degradation policy that "wastes and other materials and substances shall not be allowed to enter [waters of the state] which will reduce the existing quality thereof" RCW 90.54.020(3)(b), must be the standards and policies which govern OSMRE's review of the subject permit revision and renewal requests and related information. If Washington State standards and policies are not met, material damage to the hydrologic balance must be deemed to exist and, pursuant to Section 510(b)(3) of the SMCRA, OSMRE must deny renewal of the John Henry Mine operating permit.

Further, we believe a seismic review should be conducted, as there has been local earthquake activity as recently as July 27, 2013, to determine if scarps, microfracturing, and other potential quake-related hazards due to pooled toxic water which may open a conduit into underlying aquifers.

Surface Water and Groundwater

The Public should have available to them information on water quality samples for surface water and groundwater at the site. How have these samplings changed over the years? Are they worse now? What are the trendlines? How sensitive are the results to small changes in contaminants?

It is not only Phosphorus that is a concern to downstream water quality, as described earlier, but also the concentration of any other pollutants in significant levels, including toxic or other deleterious chemicals, that could have a significant adverse impact on downstream water quality and public use of our State's waters.

Transportation

It is imperative all traffic impacts be adequately studied and mitigated. The primary access to the mine site is along a poorly maintained one-lane (in each direction) County road (Issaquah-Hobart-Ravensdale-Black Diamond Rd) that feeds an overused one-lane (in each direction) State road (SR-169).

The City of Black Diamond plans a one-lane Roundabout at this critical County/State road intersection. Truck traffic will have difficulty maneuvering along these roads and the one-lane Roundabout intersection, and as such will impose undue safety concerns on other users.

Further, the 10,000+ additional vehicles being added to these roads and intersections by the immediately adjacent Black Diamond MPDs must be accounted for in any assessment of a reopened daily mine operation in what essentially is an ever-growing Urban area.

Contrary to the EA, at p. 44, sect. D, SR 516--SE Kent Kanglely Rd does not have "relatively low volumes along these roadways results in low to moderate levels of congestion." Actually, the Cities of Covington and Maple Valley have been seeking State funds for widening to no avail. To make matters worse, Covington has approved a large Master-Planned Development that will directly feed SR-516, thus bottlenecking traffic in both east and west directions along this already congested route.

Maple Valley, over the last 3 years, has approved large commercial development at "Four Corners"--the intersection of SR-169 and SR-516--vastly increasing both local and throughput traffic impacts. In addition, Maple Valley has recently annexed the 156-acre Summit Place (aka "Donut Hole") southwest of the "Four Corners" intersection where the Tahoma School District plans new schools and Community learning centers that will directly impact traffic volumes and patterns in the area.

None of these impacts are even discussed nor addressed in the EA.

Reclamation Plan?

An updated reclamation plan and must be prepared depicting how this site will be used and possibly developed consistent with current land-use plans. The company must be required to post an assurance bond or equivalent to cover required long-term reclamation work that satisfies all environmental rules and provides for public health and safety and protects our natural environment.

Such an updated Reclamation Plan and continuous monitoring of its implementation and execution are essential and the paramount public responsibility of the OSMRE, which is required to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.

CONCLUSIONS

We strongly request the proposed revision and renewal of permit WA00070 be denied. Eight years ago in 2006 the permit was granted and no mining occurred. It is our concern this may result in another eight or more years to push the commencement of any site reclamation until the next permit to resume mining is submitted. The permit must be denied and reclamation required promptly--no further delays, as the Public has waited long enough. It is not prudent to continue to delay reclamation. Continued delays may result in further loss of water quality and environment quality to our constituents and the citizens of the City of Black Diamond.

If the process put in motion by the subject permit revision and renewal requests to resume mining is merely to defer reclamation and, in fact, there is no actual intent to proceed with extraction, then this proposal should be denied outright and site reclamation ordered to proceed as required by law.

It is of great concern to the GMVUAC and its constituents whether the granting of the subject permit revision and renewal requests will result in yet another delay in reclamation, or whether active surface mining of coal will occur with possible significant adverse effects on the environment. To be clear, while we support mining of resources needed by society, we do not support any avoidance of proper protection for the public and environment, nor do we support continual avoidance of executing proper and agreed-to reclamation plans.

We have enumerated many issues related to the actual resumption of mining and the deleterious impacts that would impact the Public, local infrastructure, and our natural and shared environment. OSMRE must thoroughly investigate these issues and ensure protection of the Public and the environment from the adverse effects of surface coal mining operations. The substantial new information and studies prepared related to the massive YarrowBay MPDs in the City of Black Diamond have been omitted from the OSMRE review. This new information must be included and any discrepancies reported and resolved before permit revision and renewal can be given any serious consideration.

The EA asserts reclamation would be completed prior to development of the Lawson Hills MPD by YarrowBay. In fact, YarrowBay has already submitted both Phase 1 and Phase 2 land-use applications for both the Lawson Hills and The Villages MPDs and has begun 100's of acre of land clearing. Consequently, the mine site must be reclaimed as soon as possible to minimize effects on surface water, air quality, and the overall ecosystem. Further, the EA does not even discuss the vastly increase traffic due to recent and ongoing large commercial development through the "Four Corners" SR-169/SR-516 intersection in Maple Valley and the already more-often-than-not gridlocked SR-516 through Covington.

Clearly, OSMRE must deny the subject permit revision and renewal requests and immediately call for site reclamation to commence, as is required by law.

Sincerely,

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