



King County

Dow Constantine

King County Executive

401 Fifth Avenue, Suite 800

Seattle, WA 98104-1818

206-263-9600 Fax 206-296-0194

TTY Relay: 711

www.kingcounty.gov

November 12, 2019

Karen Jass

John Henry No. 1 Mine Team Leader

Office of Surface Mining Reclamation and Enforcement

Western Region Office

1999 Broadway, Suite 3320

Denver, CO 80202-5733

RE: Pacific Coast Coal Company's Permit Renewal Application request for Federal Permit No. WA-0007-E

Dear Ms. Jass:

I am commenting on the permit renewal application for the John Henry Coal Mine in eastern King County, Washington. My understanding is that this application is open for comment for 30 days after the final public notice, which was published on October 22, 2019, resulting in a comment due date of November 21, 2019. I respectfully request that the Office of Surface Mining, Reclamation and Enforcement (OSMRE) approve reclamation activities only and that OSMRE deny and exclude any new mining as part of the requested permit renewal by Pacific Coast Coal Company (PCCC). King County is one of the largest regional governments in the United States, and the most populous county in Washington State with a metropolitan population of 2.25 million people.

This issue is of critical importance to protecting water quality in lakes and streams that support salmon habitat and recreation in King County and to our efforts to confront climate change. This mine site has sat idle for more than two decades, and full and complete reclamation is long overdue.

OSMRE holds the regulatory authority for review, approval, and reclamation of coal mining. While King County will continue to apply the most current and stringent local stormwater and environmental protection standards allowed by law, and the State Department of Ecology administers the mine's Industrial Stormwater Permit, OSMRE's decision ultimately will dictate any further mining and reclamation at this site. We are counting on the agency to enforce conditions and requirements for timely and complete reclamation.

OSMRE has repeatedly required, and the operator has repeatedly failed to follow through on conditions for timely reclamation following cessation of mining. The current permit revision application is predicated on PCCC's ability to show an active contract for coal sales if the scope of their revision is to include new mining activities. OSMRE's April 2009 permit revision order "required PCCC to either begin mining or commence final reclamation according to the reclamation plan in the Permit Application Package (PAP). OSMRE required PCCC to demonstrate that it had a market for its coal through evidence of a sales contract."¹ Lacking a showing of a sales contract, "OSMRE issued a Cessation Order on May 24, 2010 (OSM C10-141-244-001) directing PCCC to cease mining operations and to revise its permit to move forward with final reclamation."² The revision request was only expanded to include mining activities when PCCC represented, in 2011, that it had a contract for the sale of coal. PCCC has acknowledged that it no longer meets this requirement, saying, "OSMRE through Permit Revision Number 4 predicated its approval on the requirement that Pacific Coast have a contract to sell coal ... As you are aware, we had such a contract in April 2011 with Lehigh Cement Company. Due to market changes over the past 8 years, Lehigh no longer requires our coal and we no longer have the required contract."³ PCCC is still requesting to "preserve the mining option" as they have done for the past 20 years. Given PCCC's acknowledged long term shift in the market away from coal resources, and the extensive period of time without active mining, OSMRE should limit PCCC's permit to reclamation only and deny any ability to restart coal mining. This step would be consistent with OSMRE's prior requirements of PCCC and its duty to ensure reclamation.

Beyond the clear legal basis to limit the permit revision to reclamation, any resumption of mining at this site will result in direct impacts to residents in Eastern King County from increased truck traffic, health concerns associated with mining operations, and potential impacts to water quality. It also would run counter to state and local commitments to transition to cleaner electricity supplies and would have negative implications for regional progress confronting climate change.

We have noted in previous letters to OSMRE our concerns about water quality impacts that would result from any resumption of mining. Those letters, from May 13, 2014 and October 17, 2017, are attached for your reference. King County raised specific concerns about the lack of conditions to ensure that on-site water quality facilities would effectively prevent increased phosphorous loading to Lake Sawyer. We have also detailed concerns about existing and potential future water quality, salmon habitat, and recreation in my August 24, 2018 comment letter to the Washington State Department of Ecology regarding reissuance of an industrial stormwater permit for the site. This letter is also attached for your reference.

¹ Environmental Assessment at 6 (September 2017).

² Environmental Assessment at 6 (September 2017).

³ PCCC letter to Karen Jass, April 19, 2019.

Any potential resumption of mining creates an unacceptable risk for Lake Sawyer, and threatens the public's interest in clean water, recreation, and healthy salmon habitat. Runoff from the mine flows through Grinder and Rock Creeks into Lake Sawyer, the fourth largest natural lake in King County. Lake Sawyer, in turn, drains into Covington Creek and Big Soos Creek. The lake is used extensively for boating, water skiing, swimming, and fishing, and features two public parks along the shoreline. In addition to resident trout, Coho Salmon pass through Lake Sawyer on the way to upstream spawning grounds in Rock Creek.

Water quality concerns in Lake Sawyer are focused on algae growth, which is primarily controlled by phosphorus concentrations. Increasing phosphorus loading to Lake Sawyer would likely increase algae growth and reduce dissolved oxygen, and that would impair recreational use, harm salmon, and disrupt the aquatic ecosystem. Algal blooms can produce toxins that threaten public health.

In recent years, total phosphorous concentrations in Lake Sawyer, as well as phosphorus loading from associated streams, have both exceeded the limits established in the Total Maximum Daily Load (TMDL), issued by State Department of Ecology in 1993. For example, King County monitoring data from 2017 found that loading from Rock and Ravensdale Creeks consistently exceeded the TMDL's Load Allocation to these creeks. Lake Sawyer has had persistent algal blooms in recent years, some of which produced toxins. King County and the City of Black Diamond are working to decrease phosphorus loading to improve water quality in Lake Sawyer, decrease algal blooms, and meet the lake's management goals.

Historic monitoring data from when the mine was actively operating indicate that resuming mining at the John Henry Mine would work against the City and County efforts by adding more phosphorus to Lake Sawyer. Data from OSRME show that phosphorus loading from the John Henry Mine site was 2.5 times higher during active mining years (1993-1998) than after mining ceased (2000-2010). Even a short-term increase in phosphorus concentrations could cause lasting damage to Lake Sawyer that would be difficult to reverse. Lakes have thresholds where increasing phosphorus can suddenly "flip" the lake from fairly clear water to a high-algae state. Attempts to reverse a high-algae state are difficult, expensive, and not always successful.

The stormwater facilities at the John Henry Mine were constructed in the mid 1980s to standards that have changed significantly since that time. In a letter to the State Department of Ecology dated March 19, 2018, the Coal Company asserted at that time that its application to resume and expand mining at the John Henry Mine was an "extension of the same project that DOE has been monitoring since mining began in 1986." In its most recent request to OSMRE for permit renewal dated August 6, 2019, Pacific Coast Coal Company has not proposed to update or reconstruct any of its proposed water discharge infrastructure in its application for renewal. It seems clear that Pacific Coast Coal Company has no intention of addressing longstanding water quality concerns and issues associated with this site.

I continue to have grave concerns about historic and continued violations of the federal permit at this site and a long history of formal and informal enforcement actions. Violations have included failing to conduct required monitoring, and violations have occurred even when the mine has been closed. Most troubling, many of the Coal Company's past permit violations have involved phosphorus, compounding the concerns noted above. Prior permit conditions have not proven adequate to ensure Pacific Coast Coal Company's compliance with applicable water quality requirements. And most recently, new permit violations were discovered during an August 14, 2019 site visit by OSMRE (see attached). Our region cannot jeopardize progress on water quality salmon recovery because of Pacific Coast Coal Company's demonstrated inability to properly follow its permit and adequately protect the surrounding area from its activities.

As we have noted in previous communications, the National Climate Assessment (NAC) highlights a series of already observed and significant changes in climate in the Pacific Northwest. The NAC provides a consensus assessment of current and projected, human caused climate impacts at national and regional scales. Across the globe, nation, and in King County, climate change is resulting in serious impacts, including documented sea level rise, higher average temperatures, and more severe precipitation events that impact our environment, economy, and health, and create new burdens for local governments like King County with primary roles in protecting public health, safety, and critical infrastructure.

Burning coal has the highest greenhouse gas emissions per unit of energy of any major fuel source – significantly higher even when compared to other fossil fuel energy sources. King County and the State of Washington are taking bold actions to reduce emissions to combat climate change and create a clean energy economy. Nationally, the use of coal for electricity generation has declined significantly in recent years. Our state and region are committed to using clean energy sources. This year the Washington State Legislature passed the Clean Energy Transformation Act which requires utilities to phase coal out of energy supplies by 2025 and supply 100 percent carbon-free electricity supplies by 2045. King County has a longstanding adopted goal of phasing out coal by 2025 and securing 90 percent renewable electricity supplies by 2030. I recently proposed new policies and develop regulations prohibiting new sub-surface coal mining in King County.

While Pacific Coast Coal Company has revised its PAP to show a three-year plan of reclamation only, their plan avoids filling Pit 2 and the removal of the coal preparation plant until late 2020, allowing Pacific Coast Coal Company to preserve a future mining option in the “unlikely event that market dynamics change.” I urge OSMRE to vigorously enforce remediation requirements to address prior noncompliance and require that PCCC to proceed immediately with full and complete reclamation of the site with no preservation of options future mining.

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Thank you for addressing this critical environmental and public health issue for the residents of King County and our entire state.

Sincerely,

A handwritten signature in black ink that reads "Dow Constantine". The signature is written in a cursive style with a long horizontal stroke at the end.

Dow Constantine
King County Executive

Enclosures (5)