

Reserve Silica
Discussion at 10/7/24 GMVUAC Meeting

Topic	King County DLS-Permitting's (DLS-P's) Statements	GMVUAC's Comments; REQUESTS in ALL CAPS BOLDFACE
Clearing & Grading (C&G) Permit	Permits can be issued for up to two years, but can be renewed indefinitely.	We have never seen the renewals. Permitting records indicate this permit has lapsed on several occasions since 2015, but filling operations have continued for long periods <u>without</u> a valid permit.
	New permit conditions have recently been instituted.	DLS-Permitting previously concluded that <u>NO</u> statement of Permit Conditions for this permit could be found going back to 2015. <u>WE REQUEST T. PETERSON PROVIDE US THESE NEWLY-DEVELOPED PERMIT CONDITIONS.</u>
Reclamation	Oversight controlled by State limiting what KC can/can't do.	Dumping of Cement Kiln Dust was administered by DOE <u>jointly</u> w/KC since '80s.
	The State shifted responsibility for reclamation.	At KC's request, the Department of Natural Resources (DNR) turned over responsibility for reclamation to KC in 2010. It appears the State poses no restrictions/limitations on KC enforcement of reclamation. DNR retained responsibility for any <i>new</i> mining.
	DLS-P has mandated Reserve Silica submit a <u>new</u> Reclamation Plan. No deadline has been specified. [1] [2]	A 2014 Interim Reclamation Plan was approved by the KC DPER in 2016, but subsequently was invalidated by KC Council in 2016 [3a] (confirmed by DPER in Oct. 2017 email [3b]). Dumping beyond the Upper & Lower Pits is a violation of KC Code. Dumping, in the name of Reclamation, has been occurring <i>without</i> a valid Reclamation Plan since 2016. <u>WE REQUEST ALL DUMPING BE SUSPENDED, AND NO PERMIT UPDATE/ RENEWAL OCCUR UNTIL A COMPLETE RECLAMATION PLAN HAS BEEN PUBLICLY VETTED & ENDORSED BY KC.</u>
Clearcut	DLS-P conceded that the clearcut was allowed per the 2016 Interim Reclamation Plan. [4]	Again, the 2016 Interim Reclamation Plan was <i>invalidated</i> by the KC Council in 2016. Even that plan <u>ONLY</u> called for reclamation of the 17-ac of Upper & Lower Pits, and did NOT permit <i>any</i> reclamation of this now clearcut area (DOE agrees). Documents preceding the rescinded 2016 Demonstration Project proposal and Interim Reclamation plan called for this area to be retained in forestry. With the rescinding, DPER concluded KC Council dictated the reclaimed property should be returned to forestry.
	Clearcut area was previously mined. <i>[Director L. Richardson instructed T. Peterson to send such info to the GMVUAC]</i>	None of our extensive historic mining maps/documents show any surface mining other than the ~2-ac in the extreme NE corner.

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Dumping	The C&G Permit did not allow any dumping on the clearcut site and no further dumping has been allowed.	We agree neither the C&G Permit, nor the Interim Reclamation Plan allowed <i>any</i> dumping on this site. Pre-mining contours also demonstrate no reclamation filling required. Again, DOE concurred clearcut area was <i>not</i> permitted for dumping. However, there appears there has been new, recent dumping in the north end of the clearcut site. <u>WE REQUEST ALL DUMPING, OUTSIDE THE DOE-DESIGNATED AND PUBLIC HEALTH SEATTLE / KC-PERMITTED CKD AND COMMERCIAL DISPOSAL AREA BE DOCUMENTED AND REMOVED.</u>
	DOE & Public Health decided to leave toxic materials in place	We understand. DOE also specified a <i>new</i> run-off monitoring location. But there is a <i>second</i> run-off route that also feeds into off-site fish-bearing waters. <u>WE REQUEST THIS SECOND RUN-OFF ROUTE BE MANDATED FOR MONITORING.</u>
	Reserve Silica is to submit a proposal for dumping on the clearcut site by 10/21/24. [5] [1]	The C&G Permit since 2007 has been for <i>reclamation</i> of mine pits. The clearcut area has never been surface mined; and even the rescinded Interim Reclamation Plan did not call for any reclamation on this site. This site should never have been clearcut, or dumped on. <u>WE REQUEST ABSOLUTELY NO FURTHER DUMPING ON THIS SITE.</u> <u>WE REQUEST A COPY OF THE RESERVE SILICA 10/21 SUBMITTAL.</u> <u>WE REQUEST DLS-P MANDATE REMOVAL OF ALL PAST DUMPING OUTSIDE THE ~13 AC CONTAINING ASARCO-CONTAMINATED WASTES DOE MANDATED BE LEFT IN PLACE. THE ENTIRE SITE, INCLUDING THOSE 13-AC SHOULD BE RETURNED TO FORESTRY, AS IS REQUIRED.</u>
	New Conditional Permit issued for Aug '24 - Jan '25.	The Public was not provided this, nor afforded opportunity to review/comment. <u>WE REQUEST A COPY, ALONG WITH ASSOCIATED "CONDITIONS."</u>
Clearcut Road	New roads constructed on the clearcut site were not permitted under the C&G permit.	<u>WE REQUEST ALL NEW ROADS AND ROAD UPGRADES, BEYOND WHAT IS REQUIRED FOR ONGOING MANDATORY MONITORING AND FORESTRY PURPOSES, BE REMOVED AND RESTORED TO FORESTRY.</u> <u>WE REQUEST BEING APPRISED OF SUCH ACTIONS.</u>

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Fines	No fines have been assessed.	Clearly fines are in order for the clearcut, dumping, and road building.
Mitigation	No mitigations have been required.	Clearly the clearcut, dumping, and road building must be mitigated.
Misc.	There are new owners and are easier to work with. [6]	<u>WE REQUEST ANY AVAILABLE INFORMATION ON NEW OWNERSHIP.</u>
	Planning to conduct 5-yr Periodic Reviews of <u>new</u> mining operations.	We fully support this move. We would like to see such reviews be conducted on <i>ongoing</i> operations. <u>WE REQUEST 5-YR PERIODIC REVIEWS BE APPLIED TO EXISTING PERMITS WHEN THEY COME UP FOR 2-YR RENEWALS.</u>
	Inspectors are <u>not</u> part of Code Enforcement head count.	We were not aware of this. How many " <i>Inspectors</i> " are on Staff?

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Footnotes

- [1] The strong evidence (though we still have not received the external survey results, Code Enforcement Manager, Thomas Campbell, promised us to prove this), is that Reserve Silica already has far surpassed *all* reclamation filling needs that have been identified in any previous documents. It would appear current operations are simply a means to benefit from the financially lucrative system of accepting wastes that are being spread across the ownership, with absolutely no “*reclamation*” benefits (in fact, adversely impacting the overarching reclamation goals). DLS-P needs to dictate what must be done to complete the reclamation and conversion back to forestry, and shut this operation down permanently! Seventeen years is WAY more than enough to fill the 17-ac of mine pits, final grade and cap the fill, and re-establish a viable forest cover. DLS-P also should dictate *real* financial penalties that reflect the substantial unpermitted gains realized, and require mitigation for damages already done on this property with which the Public will ultimately have to live.
- [2] DLS-P will expire any Interim Reclamation Plans (note: some were instated many years ago, even without work started) to get these re-issued under current standards/code, in particular drainage handbook requirements. Ty Peterson noted there is a different 40 ac site where DLS-P is reviewing reclamation for whether it needs to be brought up to current drainage standards [we believe this site is PCCC Hyde Gravel Mine Expansion next to Icy Creek].
- [3a] Given that the KC Executive recommended and the KC Council voted to invalidate the 2014 Interim Reclamation Plan, it appears DLS-P exceeding its authority in resurrecting it. Further, a step of this magnitude, including adopting any related permits, must require full Public process, especially since this is not simply a matter of temporary impacts, but rather a matter of ongoing impacts that will continue for decades with a company that has repeatedly proven it cannot be trusted. Clearly, any SEPA review, or Public process, that took place in or around 2014 now is way out of date and no longer valid for justifying any current actions or permits. The 2014 Interim Reclamation Plan was situation specific, related to a proposed development, and did not create any vested rights. Consequently, both SEPA review, as well as Public review, comment, and opportunity to appeal for a government “*decision*” of this magnitude, are called for here.
- [3b] The State turned over Reserve Silica reclamation responsibility to the KC Department of Permitting & Environmental Review (DPER) in 2010. Turnover included State-developed Reclamation Plan. In October 2017 KC DPER Product Line Manager-Resource, Randy Sandin, sent the GMVUAC a copy of the 2014 Interim Reclamation Plan, as well as a copy of the State’s 1988 Reclamation Plan. Available correspondence indicates the May 2014 Interim Reclamation Plan mostly took the Reclamation Plan in place prior to 2014, and updated it for past and remaining reclamation activities, and added information on the proposed conversion Demonstration Project, which would have allowed much of this post-reclamation land to be converted to a housing development, rather than reverting back to its pre-sand mining Forestry Land Use. It also added a paragraph on Revegetation: “*Final Revegetation ... will depend upon the ultimate land use classification for the Quarry approved by King County.*” The proposed conversion Demonstration Project was denied by the KC Council in 2016. In October 2017 KC DPER confirmed this Interim Reclamation Plan was no longer valid (ref.: Sandin e-mail to GMVUAC: “*the 2014 reclamation plan was interim as the final revegetation may have been contingent upon the demonstration ordinance that would have influenced the final land use designation of the property. The regulations governing reclamation at this site are found, in part, in KCC 21A.22.081. Pay particular attention to 081.C.2.a. With the repeal of the demonstration ordinance, the prevailing adjoining land use in the area is forestry so DPER’s expectation is that the property will be reclaimed in a manner to allow/support that use,*” i.e., Forestry). Note that while the 2014 Interim Reclamation Plan shows the entire property (except the Plant Site and settling ponds to the north of the Ravensdale-Black Diamond Rd) to be within the “*Permit Boundary,*” it clearly defines the Reclamation Area remaining to be reclaimed as **only** the Lower and Upper Pits, totaling 17-ac. NO reclamation is called for on ANY of the ~60-ac clearcut. Interestingly, the 2014 Interim Reclamation Plan also states it “*underwent extensive SEPA review and approval by King County DDES in 2006*” – while still under State control.

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- [4] DOE pointed out to Reserve Silica's lawyer the permit limits for disposal did not in any way include the clearcut area. We've discussed this in our meeting with DLS-P, where we pointed out that DLS-P has no control over Commercial Disposal permits, that is the purview of the Public Health Seattle-King County, and DLS-P has no authority to issue or modify those permits—Ty Peterson admitted we were correct on this point in our meeting.
- [5] Ty Peterson indicated that part of DLS-P's problem is that it has no information on the pre-mining topography of this area, so it cannot determine how much fill can be placed on this area to reclaim past mining activity. We pointed out they DID have pre-mining contour information on this area, as it is in the May 2016 Demonstration Project proposal. We also pointed out that other than ~2-ac on the extreme NE corner of the property—nowhere close to recent dumping, this area has never been mined, and thus warrants NO reclamation, or dumping; and that the recent dumping is ALL above pre-mining contours - in some cases much higher, and thus not justified under the overarching reclamation goal of returning mined areas to their pre-mining contours. Note the 2014 Interim Reclamation Plan clearly identifies ONLY the 17-ac of the Upper and Lower Pits in need of reclamation. With no past surface mining, there is no justification for having done the clearcut, dumping, and road building. The site is required and authorized to conduct reclamation per the C&G permit, *not* serve as a general disposal site.
- [6] Ty Peterson stated that, while he doesn't specifically know who the new Reserve Silica owners are, they are no longer local owners. However, Reserve Silica has never been local, in spite of prior owner Frank Melfi's frequent portrayal of its owners (himself and his brothers) as simple, local, country boys. As of 2016 Reserve Silica remained a wholly-owned subsidiary of Reserve Industries (owned by Frank and his brothers). Reserve Industries is headquartered in Albuquerque, NM, and has, through time, had mineral exploration, extraction, processing, and industrial waste processing operations in multiple locations throughout the U.S. and Canada, as well as in the Philippines, Singapore, Japan, Slovakia, Belgium, China (and likely other global locations). We are aware of 19 separate wholly-owned subsidiaries of Reserve Industries, and over a dozen joint ventures and other major equity interests. Reserve Industries, through its various entities, has what might be described as a somewhat checkered past, including numerous citations by both WA DOE and US EPA for violations of hazardous/dangerous waste, air quality, and water quality regulations. Both civil and criminal suits, including by a Federal grand jury, have been prosecuted. Reserve Industries also was held responsible for the cleanup of a US Superfund site. There also is one case where it transferred certain assets (Ravensdale Sandworks) from one wholly-owned subsidiary (L-Bar Products) to a newly-formed subsidiary (Reserve Silica), then appear to have intentionally bankrupted L-Bar Products, perhaps, at least in part, to address liability issues associated with L-Bar. For more background on Reserve Silica and Reserve Industries, please refer to [Assessment of Reserve Silica's Proposed Mining Site Conversion Demonstration Project](#), by Michael & Donna Brathovde, August 2016; submitted to the King County Council as part of the 2016 KCCP Major Update.