

7.

Public Comment: Cynthia Wheeler (letter)

July 1, 2014

Tracey Redd

(letter July 1, 2014)

From: Tracey Redd
Sent: Wednesday, August 06, 2014 10:50 AM
To: Gillian Zacharias
Subject: FW: SEPA Comments
Attachments: BDCommentLettertoOSMRE 05_08_2014-1.pdf; SEPA Comments PLN13-0028 - PDF Version-3.pdf; PLN13-0028MDNS.PDF

From: MDRT User
Sent: Monday, August 04, 2014 2:01 PM
To: Brenda Martinez
Subject: FW: SEPA Comments

From: Brenda Martinez
Sent: Monday, June 30, 2014 2:02 PM
To: Aaron Nix; Andy Williamson
Cc: Dave Gordon
Subject: FW: SEPA Comments

SEPA comments.

Brenda L. Martinez
City of Black Diamond

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From: Cincity63@comcast.net [mailto:Cincity63@comcast.net]
Sent: Monday, June 30, 2014 1:45 PM
To: Brenda Martinez; Dave Gordon
Subject: SEPA Comments

Mayor Gordon and Brenda Martinez-

Since the city staff is absent a SEPA Responsible Official, Director of Community Development and a City Administrator I address the SEPA Comments on PLN13-0028 in a timely fashion during the comment and appeal period on the named project action to you, the Mayor and City Clerk for Black Diamond.

Please acknowledge receipt.

Thank you.

Cindy Wheeler

July 1, 2014

Acting SEPA Responsible Official for the City of Black Diamond
(Position Currently Vacant - Vacant since Stacey Welsh Departure 6/20/14)
Community Development Department
(Community Development Director Position Currently Vacant since 6/20/14)
(Community Development Department for City of BD staffing at this point in time
consists of ONE Interim Permit Tech - Sandra Wirth)
City of Black Diamond
P O Box 599
Black Diamond, WA 98010

Subject: MDNS SEPA Threshold Determination for PLN13-0028
Public Comments: Cynthia Wheeler

Please accept the following MDNS SEPA comments for PLN13-0028 per the SEPA
notice issued June 17, 2014.

On Page (3) of the subject notice under "Other Mitigation Measures" - Bullet Point 1:

"Prior to submitting of the first clearing and grading permit for any portion of Plat C, the
proponent shall place additional archaeological shovel probes on lands near Rock
Creek (Parcel E) and provide a report to the City prepared by a qualified professional
summarizing the results."

Comments:

1. Please note and have added to the SEPA MDNS mitigation measures that **any** disturbance of soil near Rock Creek *may* require WA. Dept of Fish and Wildlife review and a Hydraulic Permit Approval
2. Please note and have added to the SEPA MDNS mitigation measure that any soil disturbing activities **will** result in the release of phosphorous in the Lake Sawyer Basin and may require mitigation measures to address and correct the impact associated with such activities.
3. There should be some concern about the archaeological shovel probe activity near Rock Creek with regard to the listing of the Puget Sound Steelhead (*O. mykiss*) as a threatened species by the National Marine Fisheries Service and the January, 2013 map of Proposed Critical Habitat for Puget Sound Steelhead identifying the entire Rock Creek System, within the City of Black Diamond, as this species critical habitat. The release of phosphorous and/or silting into Rock Creek would certainly compromise this "species critical habitat" and should also require review by the WA State Dept. of Fish and Wildlife. (National Marine Fisheries Service in the September, 2008 version of the Federal Register and January, 2013 map of Proposed Critical Habitat

for Puget Sound Steelhead published in the Federal Register.) (This data is also noted by the City of Black Diamond's Natural Resource Director in the attached City correspondence.)

Please note that my SEPA comment #2 has already been set as precedent by the City of Black Diamond's Natural Resource Director in the city's SEPA response to the Federal Office of Surface Mining (OSM) dated May 8, 2014. (See attached.)

The City's proposed mitigation in the MDNS does NOT address the soil disturbance and phosphorous release to Rock Creek and the Lake Sawyer Basin that *will* result from the archaeological shovel probes required to be placed near Rock Creek (Parcel E) per the 2009 FEIS. (City of Black Diamond's Formal Comments on the John Henry Mine Permit Renewal Application signed by Mayor Dave Gordon)

The Formal Comments, prepared by the City's Natural Resource Director state unequivocally that "The sensitivity of the Lake Sawyer drainage basin has well documented problems associated with phosphorous levels, contributing to past water quality problems downstream. **It is also well known that earth moving activities can and do contribute to increased phosphorous levels as this element is transported via sediment laden water downstream...**" (See attached letter dated May 8, 2014.)

Depending on the level of activity, depth of the archaeological probe activity and storm events during the soil disturbance the possibility of silting in Rock Creek and Lake Sawyer could also occur. Please note that the Puget Sound Steelhead (*O. mykiss*) are listed as a threatened species by the National Marine Fisheries Service in the September, 2008 version of the Federal Register. In January of 2013 a map of Proposed Critical Habitat for Puget Sound Steelhead was published in the Federal Register identifying the entire Rock Creek system, within the City of Black Diamond, as within the species critical habitat.

<http://www.ci.blackdiamond.wa.us/Depts/CommDev/planning/The%20Villages%20FEIS/Historical%20and%20Cultural%20Resources%20The%20Villages%20FEIS.pdf>

<http://www.ci.blackdiamond.wa.us/Depts/CommDev/planning/MPDDevAgreements/June2011/TV/Exhibits/Exhibit%20K.pdf>



CITY OF BLACK DIAMOND

Physical Address: 24301 Roberts Drive
Mailing Address: PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592
www.ci.blackdiamond.wa.us

Mr. Joe Wilcox
John Henry No. 1 Mine Team Leader
Office of Surface Mining Reclamation & Enforcement
1999 Broadway,
Suite 3320
Denver, CO 80202-3050

May 8, 2014

RE: City of Black Diamond's Comments on the DRAFT Environmental Assessment Completed for the John Henry Mine Permit Renewal (WA0007D).

Mr. Wilcox,

Thank you for the opportunity for the City of Black Diamond to provide input into the DRAFT Environmental Assessment (EA) recently completed by the Office of Surface Mining Reclamation and Enforcement (OSMRE). The City continues to maintain concerns with regard to moving forward with additional coal mining operations by the Pacific Coast Coal Company. The sensitivity of the Lake Sawyer drainage basin, of which this facility drains into, has well documented problems associated with phosphorus levels, contributing to past water quality problems downstream. It is also well known that earth moving activities can and do contribute to increased phosphorus levels as this element is transported via sediment laden water downstream from similar activities. The City has spent extensive financial resources in monitoring and enforcement activities in trying to reduce levels of Phosphorus since operations at the John Henry Mine, as well as other activities within the basin have stopped or have reduced discharges. The EA is very specific in that it identifies that minor long term impacts on surface water resources through even OSMRE's monitoring regiment of past activities. Further, the EA acknowledges that the "resumption of mining at the John Henry Mine will (emphasis added) likely result in a similar scenarios as was observed in the previous mining phase," but suggests that this impact will likely be less due to PCCC having gained experience¹ in controlling and treating the surface water run-off and the reduction of the area worked from what was determined during the initial FEIS for these operations. The difference being, and continued concern on part of the City of Black Diamond, the length of time it has taken for this system (Lake Sawyer Drainage Basin) to see any improvement from past operations in this regard and how additional inputs will offset the system again. In addition, conditions

*general
stuck*

¹ The EA specifies that no significant land manipulation or other activities have occurred onsite since 1999. It's unclear, in the statement made within the EA, that PCCC has any recent experience treating surface waters from this site. As it appears that technologies utilized in 1999 will again be utilized in this instance, the City of Black Diamond maintains significant concerns in the quality of surface water discharges, for a variety of parameters, including phosphorus (emphasis added) coming from this site once operations begin again.

and phosphorus reduction technologies have changed since the last time activity took place on this site and the City questions whether this follows the AKART standards as outlined within the Federal Clean Waters Act. We believe that this standard is relevant to this permit renewal application and ask that this issue be addressed by OSMRE. The City has made this a requirement on recent Master Planned Development applications planned for in the City of Black Diamond, with mitigation required of these projects if their discharges exceed current day phosphorus baseline levels.

1. The March 2014 Environmental Assessment states that "Since 2000, there has been no further listing of fish species that are impacted by water flowing from the mine site (page 39 of the EA)." Puget Sound Steelhead (*O. mykiss*) are listed as threatened by the National Marine Fisheries Service in the September 2008 version of the Federal Register. In January of 2013, a map of Proposed Critical Habitat for Puget Sound Steelhead was published in the Federal Register, identifying the entire Rock Creek system, within the City of Black Diamond, as within the species critical habitat. The City has some concerns with regard to this listing and the effluent leaving the John Henry Mine when operations begin again as this serves as a significant headwater source for both Rock and Ginder Creeks, identified as key spawning and rearing areas for Puget Sound Steelhead within the Duwamish Sub basin 17110013.

2. It's not clear from the submitted materials and past discussions with the Department of Ecology how surface water from coal cleaning operations, as well as silt-laden stormwater from extraction operations are adequately treated, onsite, and then discharged to downstream resources (i.e. Rock and Ginder Creeks). Little information is specified with regard to these treatment operations, including information on the types of polymers and/or other chemicals utilized, batching or in-line treatment, as well as testing of these discharges prior to entry into downstream resources. Black Diamond Staff have similar experience in treating construction related run-off water (utilizing cationic polymers) and the rigors of testing required by the Washington State Department of Ecology for similar activities throughout the Puget Sound Basin, including water chemistry and extensive biological toxicity testing prior to these treated waters being discharged to downstream water resources. When current City Staff expressed similar concerns with the Department of Ecology on other pending federal permit renewal applications for this site, no reason or justification was given or even if these discharges would be tested at all. We ask that OSMRE look into the matters further as the impacts have the potential to being more extensive than outlined within the EA or supporting documents.

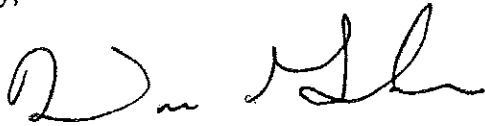
3. Extensive resources have been utilized by the City and others in the evaluation of Lake Sawyer water quality with the development of a TMDL by the Washington State Department of Ecology for phosphorus in 1991. The trend is slightly improving with regard to total phosphorus concentrations, along with improved water clarity and a reduction in the frequencies of algae blooms within the Lake Sawyer system. In addition, new development within the City are utilizing advanced technologies in the treatment of stormwater prior to its discharge into this system and a no-net increase of phosphorus loading has been agreed to by the developer, in continuing this trend of phosphorus reduction within this watershed. The City asks that OSMRE consider similar discharge requirements, if unobtainable, the City requests that these impacts (phosphorus loading) be mitigated for in order to follow suite with the federal requirements being imposed on the City through the Clean Waters and other federal mandates. If not, then the City will be held responsible for this additional financial burden in the water quality/quantity impacts identified within the Cumulative Hydrologic Impact Assessment (January 2014) in the renewal of this mining permit (WA0007D) and we maintain concern in these issues.

City of Black Diamond's Formal Comments on John Henry Mine Permit Renewal Application

4. The City requests that applicant identify a haul route a within section 11 Transportation of the Environmental Assessment. According to this document, the original FEIS discussed the transportation issue and the EA mentions that minimal impacts of increased truck traffic on both SR 169 and Roberts Drive through the City of Black Diamond. The City agrees that 10 truck loads per day will be a minimal truck traffic impact. Does the mine have a scale to make sure that the trucks are not overloaded? How will the applicant make sure that the trucks will not be overloaded?

Again, the City of Black Diamond appreciates the opportunity to provide comment on the Environmental Assessment provided by the Office of Surface Mining Reclamation and Enforcement Office for the permit renewal for the John Henry Mine. We look forward to your responses. Feel free to contact one of my Directors, either Seth Boettcher (Public Works) or Aaron Nix (Natural Resources) and they will be more than happy to help you out in any way they can.

Cordially,



Dave Gordon, Mayor
City of Black Diamond
(360)886-5700
dgordon@ci.blackdiamond.wa.us

Cc. Christy Todd, City Administrator, City of Black Diamond
Seth Boettcher, Public Works Director, City of Black Diamond
Brenda Martinez, City Clerk, City of Black Diamond
Aaron Nix, Parks/Natural Resources Director, City of Black Diamond
City of Black Diamond Councilmembers