

Submitted
Newby 11/21/2013

November 20, 2013

Clark County Planning Commission
C/O Mike Mabrey, Community Planning
P.O. Box 9810
Vancouver, WA 98666

RE: Surface Mining Overlay

Dear Ladies and Gentlemen:

Experience Related to Mining:

Because of my experience described below, I consider myself to be qualified to suggest and propose ideas, which shall ensure the quality of life of the citizens of Clark County and shall protect natural resources other than rock and minerals.

I have knowledge and experience in mining operations, both surface and underground: I have lived at and worked at a surface Chromite ($\text{Fe Cr}_2 \text{O}_4$), chrome ore mine. I have observed exploratory operations at a surface Scheelite (Ca WO_4) tungsten ore mine. I have lived near and worked at a surface placer gold mine. I have lived at and worked at a subsurface lode gold mine. I have lived near and worked at surface rock mines where the rock was crushed for road and airport construction. I have also lived near and worked at oil and gas fields. I have worked on road building and construction projects where crushed rock, sand, and gravel were used in construction. I have observation experience at six (6) surface rock mines in Clark County, and my family members or I have purchased pit run and/or crushed rock from six (6) surface rock mines in Clark County. I have developed multi-family housing and have been a responsible party for Real Estate "Public Disclosure Statement(s)" required to be furnished to

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perspective purchasers of housing. I have been a silviculturist and tree farmer in Clark County for more than fifty (50) years and we have planted thousands of commercial timber seedlings. I am a retired logger with more than forty (40) years experience and have been a SFI (Sustained Forestry Initiative) certified logger.

Proposals:

I have met with and discussed the below proposals with "CALM", "The Friends of Livingston Mountain", and with the Yacolt Mt. Group. I respectfully request that you please consider the following suggestions:

I. Mineral Lands Comprehensive Plan Policies

GOAL: To ensure the quality of life for the citizens of Clark County and to protect the natural resources of water, forest, and fish habitat, while identifying and designating lands that have commercial significance for mineral extraction which are not in conflict with surrounding land uses.

3.5 Polices

3.5.1: Please include: . . . and are not in conflict with other designated resource lands, nor degrades the quality of life of the citizens of Clark County.

3.5.6: Please correct to read similar to: The surface mining overlay shall not be designated within the rural residential "R" zones, nor within any parcel upon which any dwelling or residence is situated.

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B. Procedure & Draft Criteria to Amend Surface Mining Overlay

Part S, 1, d:

Please change to read: . . . "parcels of twenty (20) acres or larger".

C. Draft Surface Mining Standards:

A. Purpose.

Please include: . . . "and to protect the natural resources of water, forest, and fish habitat."

B. Applicability.

2. Please change to read: " The provisions of this section shall apply to new applications and to any expansion of existing sites for surface mines and related uses."

C. Uses.

1. Please change all of this Part C, 1 to "**Conditional Uses**".

D. Standards Please change to read:

1. Site Area. "Activities which are limited to extraction only shall have a minimum site size of five (5) acres, except for placer extraction of gold, silver, or platinum."

2. Setbacks.

A minimum 200-foot timber resource buffer setback from the property line of adjacent property owners for any new or expansion of any existing mining site shall be required. The setback area shall be planted and maintained with a minimum stocking of 500

trees per acre (with the majority commercial evergreen species) as described in the "Washington State Forest Practices Board Manual", part "Acceptable Stocking" for any part of the mine site which is visible from any residence, public or private road. Only mine ingress and egress roads, berms, landscaping, signs, fencing, reforestation, and reclamation may infringe on this 200-foot setback area. A 1000-foot setback from any residence or dwelling of any nearby landowner shall be required. No Clark County approval authority may reduce the size of this 200-foot setback area. Setbacks shall apply to existing structures.

- e. Sellers of any property located within 1000-feet of any designated mining area shall provide a "Public Disclosure Statement" notification of proximity to a mining area to any prospective purchaser.
- f. Mining sites shall maintain a minimum 500-foot buffer from any DNR water type Np or Ns stream and a minimum 1000-foot buffer from any DNR water type "S" or "F" stream or body of water.
- f. No mining site shall be situated upon any land parcel which has identified map contour lines or has "Slope Stability" designated as "Erosion Hazard Areas" or "Geological Hazards": Slopes Greater than 15% by the USGS, Washington State, Clark County, or by a geologist or hydrologist.

E. Approval Process

- e. Please change the distance to one-thousand (1000) feet.

Thank you for your time and consideration.

Stanley Greene
PO Box 227
Heisson, WA 98622

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Hearing Submittal
11/21/2013
Lindland

40.250.020 SURFACE MINING OVERLAY DISTRICT

Section D. Standards.

Subsection 12 – Water Availability

12. The applicant shall identify the source or potential source for water and calculate the anticipated water use for the site. ~~approximate amount of water anticipated to be used on the site.~~ If this amount exceeds the exemption provided for under RCW 90.44.050, the applicant must present evidence that adequate water will can be made available.

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DAVID ROGERS
submitted@hearing
11/21/2013

3. The proposed changes fail to reflect that Clark County has no effective enforcement of County law as it relates to existing surface mines. While this may reflect a lack of interest in enforcement by a majority of the current County Commission, the County should adopt an enforcement framework that is not subject to political meddling. Absent a substantial and robust enforcement system that includes creation of a direct avenue for citizen enforcement of County rules, surface mines will continue to have serious adverse impacts on Clark County residents, property owners and the natural resource values within the county.

4. Any new surface mining rules should be applied to both existing and proposed mines. A number of the existing mines in the County and specifically those operated by Stordahl are having serious impacts on water quality and the livability of adjacent residential properties. While the lack of effective enforcement of existing rules by the County is certainly a major cause of these impacts, the Planning commission should not simply grandfather the operation for existing mines so that impacts to water resources from these mines can continue.

5. As an even number of mining interests have acknowledged publicly, there is no effective way to comprehensively permit surface mines as an outright use, given the unique locations, features, and impacts from each mine. Mining should continue to be regulated through the comprehensive plan process. As required by Washington law, any changes to the surface mining overlay map can only be approved through a Type IV legislative process

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November 21, 2013

Clark County Planning Commission
c/o Marilee McCall
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RE: Comments on proposed surface mining overlay changes – Policy, Regulations, Codes & Standards

Dear Members of the Clark County Planning Commission:

I am writing on behalf of Friends of the East Fork ("Friends") to comment on the proposed changes to the County's surface mining overlay map and comprehensive plan. While we appreciate that some of the areas that had been proposed to be added to the overlay zone have been removed from the most recent overlay map draft, Friends has a number of serious concerns regarding the proposed changes that we believe are inconsistent with both procedural and substantive requirements of County and State law.



Summary of our primary concerns and comments as they relate to Policy, Regulations, Codes & Standards include:

1. The County has failed to comply with SEPA. The County's proposed surface mining overlay and comprehensive plan changes would have significant impacts on water quality, aquatic resources, and domestic drinking water resources that the County has an obligation to disclose and evaluate under SEPA. There is no factual or legal basis that supports an MDNS. The County should not proceed with any overlay expansions or comprehensive plan changes until it evaluates the serious current impacts that mining is already having on water and aquatic resources and then based on that information evaluates the likely expected impacts from the proposed changes. **For example**, we have included photos here documenting pollution from the haul road to



Storedahl's Mountain Top Quarry which is seriously impacting important Lewis River tributaries and downstream ponds owned by neighbors to the Mountain Top quarry.

The required impact review must consider the site-specific impacts on water quality, quantity and aquatic resources from mining in both areas that are currently mapped for surface mining and which would be maintained as such in the proposed overlay plan, as well as, new areas which the mining overlay would be expanded to include.



2. Proposed comprehensive plan changes must be amended to protect water quality, water quantity, aquatic habitat and salmonids. The proposed comprehensive plan provisions are wholly inadequate to protect either water quality and salmon habitat or domestic drinking water supplies. As described in greater detail below, the proposed overlay and comprehensive plan changes ignore entirely Clark County's comprehensive plan goals and policies that specifically require protection of endangered species habitat, salmonid habitat, shorelines, water quality and environmental resource values generally. There are also not effective mechanisms and measures proposed to protect against the type of significant impacts that mines such as Yacolt Mountain are having on nearby residential wells.



3. The proposed changes fail to remedy the compliance and enforcement crisis in Clark County. The proposed changes fail to reflect that Clark County has no effective enforcement of County law as it relates to existing surface mines. While this may reflect a lack of interest in enforcement by a majority of the current County Commission. The County should adopt an enforcement framework that is not subject to political meddling. Absent a substantial and robust enforcement system that includes creation of a direct avenue for citizen enforcement of County rules, as surface mines will continue to have serious adverse impacts on Clark County residents, property owners and the natural resource values within the county.

4. More protective surface mining rules should be applied to all mines, not only new or expanded mines. Any new surface mining rules should be applied to both existing and proposed mines. A number of the existing mines in the County and specifically those operated by Storedahl are having serious impacts on water quality and the livability of adjacent residential properties. While the lack of effective enforcement of existing rules by the County is certainly a major cause of these impacts, the Planning Commission should not simply grandfather the

operation of existing mines so that impacts to water resources from these mines can continue.

5. Procedurally surface mines must continue to be regulated as conditional uses and any changes to the surface mining overlay can only be approved through a Type IV land use process. As even a number of mining interests have acknowledged publically, there is no effective way to comprehensively permit surface mines as an outright use given the unique locations, features, and impacts from each mine. Mining should continue to be regulated through the comprehensive plan process. As required by Washington law, any changes to the surface mining overlay map can only be approved through a Type IV legislative process.

The concerns summarized above are described in greater detail below and include our concerns that:

A. The County needs to prepare an EIS under SEPA that includes an evaluation of the impacts that surface mining is already having.

Prior to proposing any changes that would expand mining in Clark County and potentially weaken regulation of mining, the County should evaluate the current impacts that surface mining is already having in the County. This not only makes common sense, but is required under the State Environmental Policy Act (SEPA) which directs the County to carefully evaluate and describe the impacts the proposed changes would have on water quality, fish and wildlife, residential water supplies, and humans. Friends agrees with and incorporates by reference the comments submitted by David Mann on behalf of Friends of Livingston Mountain on October 15, 2013 which discuss the failure to comply with SEPA in detail. We will not repeat those concerns here, but will add several specific concerns.

The County must prepare an EIS that begins with an evaluation of the impacts that mining activities in the County are currently having on water quality in streams and rivers, salmonids and other sensitive aquatic species, as well as, residential water supplies. A frank evaluation of the impacts from Storedahls' Yacolt Mountain and Daybreak mines, as well as other mines in the county, is the critical first step in understanding what the direct, indirect and cumulative effects of expanding mining in Clark County as is required by SEPA.

The photos included here, for example, show silt and sediment pollution coming off of Storedahl's mining haul road into tributaries of the East Fork of the Lewis River. These tributaries are federally designated critical habitat for multiple runs of salmon and are being seriously impacted by pollution that is entirely avoidable. These same tributaries also feed residential ponds that have been filled in and rendered virtually unusable. Despite years of complaints to Clark County from Friends and local residents, this pollution continues today unabated as a result of both Storedahl's failure to remedy these violations and the County's near complete

failure to enforce the conditions of Storedahl's conditional use permit or require effective stormwater controls.

Similarly, when Clark County approved the Storedahl Yacolt Mountain mine it rejected claims by neighbors who were concerned that extensive blasting and excavation would impact their wells and domestic water supplies. Within several years of the start of mining, the wells at numerous residential properties surrounding the Yacolt Mountain mine had been so severely impacted by low flows and pollutants property owners were forced to spend tens of thousands of dollars to extend PUD water to their property. The County's approval of Storedahl's operations have come at a serious cost to neighbors such as David Rogers, who has spent over \$30,000 of his retirement savings to remedy the water supply problems created by Storedahl and the County's approval of it.

As a part of its SEPA review, the county should specifically consider its ongoing failure to actually enforce the terms of the conditional use mining permits it has already issued. Adopting protective conditional use standards means little in light of the County's continuing failure to enforce these terms even when given clear evidence of repeated and glaring violations. In evaluating the expected impacts, absent some change in the County's enforcement policies, the EIS needs to assume that the County will continue not to enforce the standards intended to protect water quality, residential water supplies, habitat and general livability. This is obviously important, because any assumption that enforcement will help avoid significant impacts from the proposed expansion of surface mining would be unfounded.

B. There is not evidence to support that the proposed surface mining changes comply with State law planning policies aimed at protecting water resources, fish and wildlife

The proposed overlay and comprehensive plan changes do not appear to incorporate any effort to comply with either state law or County comprehensive plan policies related to the protection of water quality, quantity or aquatic resources. Neither the staff report nor the content of the proposed changes reflect that the County has applied these requirements or made any factual or legal review to determine if the new overlay map and comprehensive plan changes are consistent with the County's existing comprehensive plan policies.

For example, WAC 365-190-070 states:

(2) Classification criteria. Areas shall be classified as mineral resource lands based on geologic, environmental, and economic factors, existing land uses, and land ownership

The classification explicitly requires consideration of environmental factors and yet there is nothing in the staff report or other relevant documents to support the county has reviewed or considered environmental impacts before establishing areas that would be included on the proposed overlay map.

There is no evidence that the County reviewed or seriously considered “environmental factors,” such as risk and impacts to water quality, domestic water supplies, threatened and endangered salmonids, riparian habitats or other aquatic resources in its proposed surface mining overlay.

Both Yacolt Mountain and the Day Break mines, for example, are in areas that are highly environmentally sensitive. The Yacolt Mountain Quarry is known to have highly erodible soils, for example, and it impacts headwater tributaries to the East Fork Lewis River. The Daybreak mine is located in the floodplain for one of Washington’s most important salmon and steelhead rivers and is elevating water temperatures to levels lethal to ESA listed salmonids and causing significant impacts to water quality. The proposed overlay mapping process, however, has not even considered these issues despite the requirement in WAC 365-190-070(2) to do so.

State law also requires that in classifying minerals the County is supposed to consider the, “Availability and adequacy of water supply,” and yet there is no indication that the County has considered water supply issues in any way. WAC 365-190-070(2)(d). Water availability continues to be a major problem at the Yacolt Mountain mine for example and Storedahl has been reported multiple times to the Washington Dept. Ecology for illegally withdrawing surface waters absent any state water rights permit to do so.

The Washington Growth Management Act’s environmental goal states: “Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.” RCW 36.70A.020(10). GMA goals also state: “Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.” RCW 36.70A.020(12). There is no evidence that either the proposed overlay map or comprehensive plan changes have been evaluated against these goals.

How would the expansion of the mining overlay and proposed comprehensive plan changes impact water and air quality? What water is available to support retaining existing mines such as Yacolt Mountain in the proposed overlay map? What are the impacts of existing mines and areas proposed for expansion in light of impacts on sedimentation, degradation of water quality and impacts to salmonid habitat? These questions and others that relate to the impacts of the proposed overlay and plan changes should be considered in an EIS.

C. The County has failed to consider or support how the proposed changes would be consistent with relevant 20-year Comprehensive Growth Management Plan policies

The county staff report from August 28, 2013 fails to support that the County has reviewed or adequately considered the proposed surface mining changes in light of a number of highly relevant County comprehensive plan policies.

Policy 3.0.2, for example, states that, "The county and each municipality shall cooperate to ensure the preservation and protection of natural resources, critical areas, open space, and recreational lands within and near the urban area through adequate and compatible policies and regulations." While the staff report at least notes Policy 3.0.2 its states only that, "[t]he proposed actions include designation of additional areas of mineral resource lands for protection without adversely affecting urban areas." Staff Rpt at 5. The findings therefore ignore any evaluation or consideration of how the proposed surface mining changes will ensure protection of natural resources and critical areas, including riparian areas, critical areas for salmon, and other aquatic resources. This is plainly required under Policy 3.0.2. Finding that the addition of mineral resource areas would occur "without adversely affecting urban areas" ignores the core requirements of this Policy.

The staff report fails to disclose, evaluate or address in any way how the proposed surface mining changes would comply with a number of relevant 20-year plan policies relate to rural lands, the environment, shorelines and critical areas as addressed below. There is no other evidence to support that the proposed overlay and comprehensive plan changes are consistent with the policies identified below.

For example:

Policy 3.1.1 states:

Clark County shall maintain and protect the character of its designated Rural Area. Therefore, the county's land use regulations and development standards should protect and enhance the following components of the Rural Area:

- environmental quality, particularly as evidenced by the health of wildlife and fisheries (especially salmon and trout), aquifers used for potable water, surface water bodies and natural drainage systems;

Despite the significance of existing impacts from mining there is no evidence that the County has considered the proposed surface mining changes in light of Policy 3.1.1. Surface mining, when implemented in an environment where the County shows little interest in enforcing mining laws against operators like Storedahl who regularly violate the requirements of County law, has major impacts on rural areas. This includes the wildlife and fisheries, aquifers, residential water supplies and riparian areas that are to be protected consistent with Policy 3.1.1.

Policy 4.1.2 states:

The county and each municipality shall cooperate to ensure the preservation and protection of natural resources, critical areas, open space, and recreational lands within and near the urban area through adequate and compatible policies and regulations. These policies and regulations shall provide for the long-term viability of terrestrial habitat functions and natural watershed processes identified by scientifically-based assessment.

There is nothing to support that the County has evaluated how the proposed mining changes would comply with the requirement to protect the long-term viability of terrestrial habitat and natural watershed processes. Mining activities from mines such as the Daybreak and Yacolt Mount mines are currently having significant impacts on aquatic resources and continuing and expanding similar mining projects would only exacerbate this problem.

Clark County's comprehensive plan has a specific goal to, "Protect and recover endangered species within Clark County" and "Protect, conserve, and recover salmonids within Clark County." Goals 4.4 and 4.5. The policies relate to these goals require:

4.3.1 Policies

4.3.1 The county will update and implement the Habitat Conservation Ordinance (HCO) with regard to the preservation of state and federally listed fish and wildlife species and their habitats.

4.3.2 Consult with the WDFW when future land uses have a probable impact on listed species and their habitat.

4.3.3 In cooperation with WDFW, establish appropriate avoidance, minimization, and mitigation measures that functionally replace or improve affected species habitat

4.4 Policies

4.4.1 Salmonids cannot distinguish between urban and rural boundaries. Resource protections in both areas should be applied using scientifically based recovery strategies.

4.4.3 Restore and maintain properly functioning ecosystem conditions for salmonids in all county waters. Embrace and implement recovery plans adopted by the National Marine Fisheries Service (NMFS) and the Lower Columbia Fish Recovery Board.

How would the proposed surface mining overlay changes comply with these policies? Why has the County not consulted with WDFW in relation to the proposed surface mining changes? What designated critical habitat areas would be impacted by current and expanded proposed surface mining areas? What protections would specifically protect water quality at levels required to support salmonids? The County has yet to consider, let alone address, these fundamental questions that need to be evaluated before it could make any finding that the proposed surface mining changes would be consistent with the requirement to “restore and maintain properly function ecosystem conditions for salmonids in all county waters” and other comprehensive plan policies.

Similarly, there is nothing to support that the county has evaluated the proposed surface mining changes in reference to compliance with the county shorelines goals and policies. Again, the resources protected by these goals and policies are already being significantly adversely affected by mines such as the Daybreak mine. The County needs to carefully review how the proposed overlay and comprehensive plan changes comply with shoreline goals and policies the specifically require protection of the Lewis and East Fork Lewis River.

There is nothing to suggest that the proposed overlay and comprehensive plan changes will comply with the stated “water quality and quantity” goal for shorelines that requires:

“The goal for water quality and quantity is to protect and enhance the quality and quantity of the region’s water resources to ensure there is safe, clean water for the public’s needs and enjoyment.” Comp. Plan at p. 13-11

Similarly, there is no evidence that the proposed changes would be consistent with Shoreline protection policies such as:

1. Encourage the location, construction, operation, and maintenance of shoreline uses, developments, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.
2. Minimize, through effective education, site planning, and best management practices, the inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage systems that could contaminate or cause adverse effects on water quality.
3. Encourage the maintenance and restoration of appropriate vegetative buffers along surface waters to improve water temperature and reduces the adverse effects of erosion and runoff.

The proposed overlay and conditional use changes also appear to be proposed absent any evaluation of whether the proposed overlays would impact or are consistent with known and mapped critical areas such as wetlands, fish and wildlife habitat, areas of high erosion risks, and flood hazards. Both existing and newly proposed areas planned for inclusion in the amended mining overlay map are already identified as critical areas and at the very least the impacts of including lands with high erosion risks and priority salmon habitat need to be considered in terms of both expected impacts under SEPA and as a part of the classification criteria review in WAC 365-190-070 which explicitly requires as much.

D. The proposed changes fail to remedy the lack of compliance and enforcement in Clark County.

Friends believes that a majority of sand and gravel operators in the County take their compliance responsibilities seriously and generally make real efforts to comply with county, state and federal law. Storedahl, however, stands out not only because it has consistently failed to implement measures explicitly required in its conditional use permits but because Clark County has done little to bring Storedahl into compliance. Absent the addition of a significant new enforcement framework these violations are likely to continue. Friends believes that any revisions to County mining rules should include a specific protocol for citizen accountability, complaint response and citizen enforcement. We support the proposal for yearly compliance reports, but believe a specific process should be adopted for recording, tracking and responding to citizen complaints about mine operations. Additionally, County law should be amended to make clear that citizens have the right to bring enforcement actions against mine operators that are violating their permits or other county laws in Clark County Superior Court.

Should the Commission move forward with the proposed changes, Friends recommends the following language be suggested for adoption by the County Commission into County law:

Citizen enforcement authority:

1) A person shall have the right to bring a legal enforcement action on behalf of the County against a surface mine operator to require that operator to comply with the terms of its land use approval permit or other applicable requirement of County law if:

- A) the surface mine operator has had more than three citizen complaints filed against it with the County regarding an alleged violation of its permit or other requirement of County law, and
- B) after 60 days following the third complaint the alleged violation has not been remedied either by the County or the surface mine operator;

- 2) Any such claim shall be brought in Clark County Circuit Court.
- 3) Any party who brings an action on behalf of the County shall have the right to seek the same remedies as does the County pursuant to its existing enforcement authority.

Conclusion

For these reasons Friends urges the Planning Commission to reevaluate the proposed changes in light of both County and State law and modify the proposed changes (including policy, regulations, codes & standards) so as to address the serious impacts that surface mining by at least some operators is currently having on Clark County's natural resources and communities alike.

Sincerely,



Richard Dyrland
President Friends of the East Fork Lewis River

WHAT CALM IS REALLY PROPOSING IS A CODIFIED ANNUAL REGISTRATION AND INSPECTION PROCESS FOR MINING OPERATIONS. IF THE HEARING IS PROBLEMATIC, THEN CHANGE IT. GO WITH THE PROVISIONS PROPOSED IN SECTIONS 2 AND 3 WHICH PROVIDE FOR ANNUAL REGISTRATION AND INSPECTION. IF YOU REALLY WANT TO FIND OUT IF THERE ARE PROBLEMS, SEND OUT A REQUEST TO THE PEOPLE WHO ARE ENTITLED TO GET THE NOTICE WHO WOULD HAVE ATTENDED THE HEARING AND ASK THEM TO SUBMIT THEIR RESPONSES IN WRITING PRIOR TO THE ANNUAL REVIEW. IF THERE ARE PROBLEMS, THEY WILL BE THE ONES THAT WOULD TELL THE COUNTY.

AGAIN, CALM DID NOT INVENT THIS LANGUAGE. CALM LOOKED TO OTHER JURISDICTIONS THAT ARE DEALING WITH MINING AND INVESTIGATED WHAT WAS WORKING. OUR SUGGESTIONS COME FROM THURSTON COUNTY. WHEN WE ASKED THEIR STAFF ABOUT THEIR INSPECTIONS AND ANNUAL REGISTRATION- PROGRAM, THURSTON COUNTY STAFF SAID THAT THEIR PROGRAM IS A SUCCESS. THERE ARE NO MAJOR ISSUES WITH MONITORING AND ENFORCEMENT WITH MINING OPERATIONS. WHAT THIS TELLS US IS THAT IN OTHER COUNTIES OPERATORS ARE NOT FINDING IT TOO ONEROUS TO DEMONSTRATE COMPLIANCE.

IF YOU HAVE RESPONSIBLE OPERATORS, THEN ANNUAL REGISTRATION AND MONITORING ARE NOT A PROBLEM, IT'S LIKE RENEWING A LICENSE OR PAYING YOUR TAXES. YOU MAY NOT ENJOY IT, BUT IT CAN BE DONE.

THE FINAL PIECE OF THE CALM PROPOSAL FOR MONITORING AND ENFORCEMENT REQUIRES THAT DEFICIENCIES IDENTIFIED IN THE ANNUAL REVIEW OR INSPECTION BE REMEDIED. CALM AGAIN BORROWED FROM EXISTING

MONITORING AND ENFORCEMENT ARE THE KEYSTONE TO ALL OF THESE CODE PROVISIONS. WITHOUT MONITORING AND ENFORCEMENT, THERE IS NO REASON CODE AND NO REASON FOR OPERATORS TO COMPLY. YES, WE KNOW THAT THE DNR HAS A FULL SET OF REGULATIONS AND THAT THE COUNTY'S POSITION IS TO LET DNR HANDLE MONITORING ITS OWN RULES. AND, YES, WE HAVE HEARD THAT THE SYSTEM ISN'T WORKING BECAUSE NO ONE KNOWS WHO IS IN CHARGE. MINING GENERATES LOCAL BENEFITS AND HAS OBVIOUS LOCAL IMPACTS. WHY IS THERE NO LOCAL ACCOUNTABILITY?

AT THE LAST HEARING, YOU HEARD HOURS OF TESTIMONY BY CITIZENS ABOUT THE COUNTY'S INABILITY AND FAILURE TO ENFORCE THEIR OWN STATUTES. WE MUST RESTORE BALANCE.

CALM HAS PROVIDED STATUTORY ACCOUNTABILITY PROVISIONS THROUGH MONITORING AND ENFORCEMENT. CALM DIDN'T INVENT THESE PROVISIONS. THE FIRST PROVISION WAS PROPOSED BY THE TASK FORCE WHICH WAS MADE UP HEAVILY OF INDUSTRY REPRESENTATIVES. THE TASK FORCE PROPOSED A HEARING AT THE 12 MONTH INTERVAL.

THE 12-MONTH HEARING THE TASK FORCE PROPOSED AND WE RESPONDED TO IS NOT AN EVIDENTIARY HEARING ON THE MERITS OF THE LAND USE APPLICATION. IT WOULD BE A REVIEW AND POSSIBLE HEARING ON COMPLIANCE WITH AN APPROVED LAND USE DECISION. THAT IS A WHOLLY SEPARATE MATTER THAN THE GMA LIMITATION ON ONE OPEN RECORD HEARING ON A LAND USE APPLICATION.

CLARK COUNTY CODE TO MAKE IT CLEAR THAT NONCOMPLIANCE HAS CONSEQUENCES, ESPECIALLY WHEN IT COMES TO THOSE VALUE-ADDED ACTIVITIES THAT OPERATORS WANT TO HAVE ONSITE.

OUR SYSTEM IS BROKEN IN CLARK COUNTY WHEN IT COMES TO MINING. YOU HAVE HEARD HOURS OF TESTIMONY FROM PEOPLE BEGGING FOR HELP. WE NEED A PERSON TO START ACTUALLY MAKING THESE STANDARDS AND POLICIES MEANINGFUL. WHILE IT MAY NOT BE THE ROLE OF THIS COMMISSION TO ASK FOR STAFFING, YOU CAN LAY THE FOUNDATION AND SEE A RETURN ON THE INVESTMENT OF YOUR TIME BY PUTTING IN PLACE SOME STRONG MONITORING AND INFORCEMENT PROVISIONS NOW. SEND A MESSAGE TO THE CITIZENS AND TO THE BOARD OF COMMEISSIONERS THAT YOU WANT TO SEE THIS PROBLEM SOLVED.