

Ottawa

Room 519, Confederation Building
Ottawa, Ontario K1A 0A6
Tel.: 613-943-2180
Fax: 613-993-5577

Constituency

126 Ingram Street Suite 101
Duncan, British Columbia V9L 1P1
Tel: 1-866-609-9998
Fax: 250-746-2354



Alistair MacGregor

Member of Parliament/Député
Cowichan-Malahat-Langford
Alistair.MacGregor@parl.gc.ca

Honourable Judy Foote

Minister of Public Services and Procurement

Place du Portage, Phase III, Room 18A1

11 Laurier Street

Gatineau, Quebec

K1A 0S5

January 26, 2016

RE: Public Works Solicitation: Defense Construction Canada CFB Esquimalt A/B Jetty Recapitalization Project

I am writing to raise concerns about a site currently qualified under the BC Environmental Management Act - Permit PR-105809, Cobble Hill Holdings Ltd. In the view of many of my constituents, this site represents an environmental and financial risk to your department and an environmental and economic risk to the community of Shawnigan Lake.

The community of Shawnigan Lake in the Cowichan Valley Regional District (CVRD) of British Columbia has stood against the permit as a unified community, and rejects the risk of placing contaminated soils in a containment system above an aquifer within a community watershed that supplies drinking water for 12,000 people. Members of my community believe this risk is not aligned to the objectives of Public Works Canada to protect drinking water sources through the investment in contaminated site cleanup.

The CVRD, the Shawnigan Residents Association and other individual residents each pursued an appeal with the BC Environmental Appeal Board and were unsuccessful. A judicial review of the decision is on-going. Furthermore, the Supreme Court of British Columbia is currently weighing evidence in a case brought forward by the CVRD alleging that the site breaches zoning bylaws. Last week, the Malahat Nation filed in court for a stay of the permit. The City of Victoria has also passed a motion in support of revoking the permit for this site. The BC Government completed no survey or community consultation to identify the best sites in the Cowichan Valley Regional District and in the permit process ignored the offer from the CVRD to assist in identifying more appropriate sites within the region.

The permit applicant, Cobble Hill Holdings Ltd., has operated a rock quarry as South Island Aggregates Ltd. at the disposal site for a number of years under a BC Ministry of Mines permit. However, historical unpermitted dumping of contaminated soils and construction materials, contamination of surface water in a creek leading to Shawnigan Lake, and encroachment of mining operations and large amounts of fill on neighbouring CVRD park land have caused my constituents to raise questions about environmentally responsible operations.

The BC Ministry of Energy and Mines sent a letter on March 24, 2014 to South Island Aggregates Ltd., directing the applicant to "cease all work" on permit-related construction work until the Ministry received a survey document

Ottawa

Pièce 519, Édifice de la Confédération
Ottawa (Ontario) K1A 0A6
Tél: 613-943-2180
Télééc: 613-993-5577

Circonscription

126, rue Ingram suite 101
Duncan (Columbia Britannique) V9L 1P1
Tél: 1-866-609-9998
Télééc: 250-746-2354

prepared and signed by a BC registered Land Surveyor demonstrating compliance with their mine permit. The BC Ministry of Energy and Mines directed the applicant to remedy the encroachments to the satisfaction of the CVRD. The survey document and action that followed did not meet the BC Ministry of Mines or the CVRD requirements. Please see the letter attached which outlines the specific concerns of the CVRD counsel to the BC Ministry of Energy and Mines on April 27, 2015.

Since 2007, South Island Aggregates Ltd. and Cobble Hill Holdings have been involved in increasing litigation related to their business operation. BC Court Services record thirteen separate BC Supreme Court civil actions with various parties, an action for foreclosure, and action for enforcement related to BC Workers Compensation compliance.

Accordingly, my constituents are concerned that the issuance of any Public Works Canada (PWC) contract that includes using the services of the BC Permit PR-105809, Cobble Hill Holdings Ltd. site may have the following risks:

- Environmental risk to the Shawnigan Lake watershed from the performance of the BC permitted solution or the applicant during or after any PWC projects.
- Project completion and schedule risk to PWC project delivery from potential interruption or discontinuance of disposal services from this service provider.
- Financial risk to PWC from its prime contractor having to replace the disposal service provider with another qualified service providers after contract award and the long term success of contaminated materials storage.

I ask that your department be informed of these risks and that these factors are considered prior to accepting proposals that include such risks for communities in BC and all of Canada.

Sincerely,



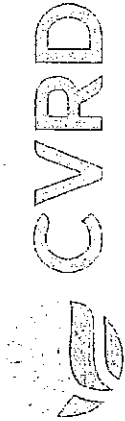
Alistair MacGregor
Member of Parliament
Cowichan-Malahat-Langford

Cc: Randall Garrison, MP
Esquimalt-Saanich-Sooke

Murray Rankin, MP
Victoria

Bill Routley, MLA
Cowichan Valley

Cowichan Valley Regional District
Chair and Directors



175 Ingram Street
Duncan, BC V9L 1N8
www.cvrd.bc.ca

Office: 250.746.2500
Fax: 250.746.2513
Toll Free: 1.800.665.3955

April 27, 2015

Ministry of Energy, Mines and Natural Gas
PO Box 9395
STN PROV GOVT
VICTORIA BC V8W 9M9

via email: Eddy.Taje@gov.bc.ca

Attention: Ed Taje, Regional Manager, Mining Operations

Dear Mr. Taje:

**Re: SIA/CHH Encroachment and Damage to CVRD Property
(Lot 22, VIP 78459, Blocks 201 and 303, Malahat Land District)**

The Cowichan Valley Regional District (CVRD) requests immediate follow-up by the Ministry of Energy, Mines and Natural Gas (Ministry) to address outstanding issues related to encroachments and damage to the above noted property owned by the CVRD as well as to the five (5) metre buffer (the "buffer") on the western side of the property located at 640 Stebbings Road in Shawnigan Lake as a result of activities undertaken by South Island Aggregates (SIA) and Cobble Hill Holdings (CHH).

The Ministry, along with the Ministry of Environment, was formally advised by the CVRD by way of a letter dated April 22, 2014 (attached) with follow-up correspondence of the CVRD's concerns regarding various activities undertaken by SIA/CHH on the CVRD's property as well as within the buffer on SIA/CHH's property adjacent to the CVRD's property.

On August 1, 2014, the CVRD's solicitor wrote a letter to SIA/CHH's solicitor (attached) regarding the various activities and required a survey and geotechnical report to be provided by SIA/CHH. The Ministry was copied on this letter given the requirements in the mines permit issued by the Ministry in respect of SIA/CHH's property. The CVRD has received no response from SIA or CHH to the CVRD's August 1, 2014 letter and is therefore following up directly with the Ministry.

Despite your letters dated March 24, 2014 and April 1, 2014 indicating that the CVRD's property shall be returned to its normal pre-encroachment state at SIA/CHH's cost to the satisfaction of the CVRD, to date there has been no remediation of damage to the CVRD's property with the CVRD's consent. Furthermore, minimal remediation has been undertaken to the buffer between the mine and the CVRD's property which is required to be maintained under the mines permit for SIA/CHH's property. The CVRD is therefore greatly concerned that the issuance of any amendment to the mines permit regarding a contaminated soil facility without full and proper remediation of the CVRD's property and the buffer beforehand to the satisfaction of the CVRD will result in further damage and ongoing impacts to the CVRD's property.

.../2

The following issues as previously conveyed to both the Ministry and SIA/CHH, remain outstanding and must be fully addressed to the satisfaction of the CVRD:

1. The lack of proper marking of a five (5) metre buffer has resulted in blasting and excavation of rock from the CVRD's property in at least two locations as well as within the buffer on SIA/CHH's property contrary to the mines permit. To date, the CVRD has not seen evidence of a survey as required by your letters to SIA/CHH to delineate the quarry footprint in its excavated location. Furthermore, the CVRD requires the survey to show the original and altered grade of SIA/CHH's property within the buffer and the CVRD's property within 20 metres from the property boundary. At the Environmental Appeal Board hearing regarding the Ministry of Environment's permit in relation to SIA/CHH's property, Mr. Miller, a blaster with Western Grater Contracting hired by SIA/CHH to undertake the blasting in and about the buffer indicated that they were instructed by SIA/CHH to blast within the buffer and that the intent was to lower the grade so that water in the quarry could drain off onto the CVRD's property.
2. Moreover, without the consent of the CVRD, the larger excavated area on the CVRD's property was backfilled. The CVRD is not satisfied with the work done. The CVRD expected such work to be completed based on a remediation plan prepared by a geotechnical engineer, and that such plan to be provided to the CVRD for review and approval before undertaking work to the CVRD's property. The CVRD is also concerned about the quality and condition of material used for backfilling. As previously requested, the CVRD requires a report to be completed by a geotechnical engineer confirming that the backfilling work done without approval on the CVRD's property and within the buffer is of the same structural stability and grade as its condition prior to SIA/CHH's activities and does not pose any risk to the CVRD's property. Furthermore, the geotechnical report must provide an estimation of the amount of rock removed from the CVRD's property. The CVRD requires compensation for the rock removed from the CVRD's property. In addition, a survey will be required confirming that the work (if acceptable to the CVRD) has been completed up to the metre buffer.
3. As previously expressed to the Ministry, construction of the water treatment plant settling pond berm and placement of the outlet pipes within the five (5) metre mines buffer area is of significant concern to the CVRD, as there does not remain in place appropriate emergency access for equipment to make in case of failure, unless such access is done through trespass on the CVRD's property. The entirety of the water treatment plant settling pond infrastructure needs to be removed from the five (5) metre perimeter buffer. Also, an updated geotechnical report is required confirming the berm and settlement pond is structurally stable, meets all necessary requirements and does not pose a risk to the CVRD's property given its necessary relocation after the original geotechnical report and assessment of the settlement pond were prepared. It is noted that Levelton

Consultants in their August 6, 2014 letter to SIA specifically indicate that the internal stability of the berm was not assessed by them.

4. The blasting of rock and the construction of a spillway on the CVRD's property in the location described in the EAB hearing as the ephemeral stream remains of great concern to the CVRD in that this area is to be used for the discharge of effluent from the proposed contaminated soil facility. Without accepting that any such ephemeral stream existed prior to SIA/CHH's activities, the CVRD does not consider the letter prepared by Levelton dated August 6, 2014 to be sufficient. Levelton did not, for example, address the structural stability of the work undertaken by SIA/CHH on the CVRD's property. Nor did Levelton base its letter on the fact that SIA/CHH significantly altered this area. The CVRD sought to undertake its own investigation with respect to the activities in and about this area but a survey prepared by SIA/CHH showing the original and altered grade is required before the issue can be addressed further. The CVRD ought not to have to undertake such a survey at its expense.
5. As previously expressed to the Ministry, the CVRD is concerned both about the source and quantity of the water flow and effects of siltation on the CVRD's property (which is already extensively evidenced to the west of the water treatment plant settling pond outlet pipes), given SIA's/CHH's active quarry immediately adjacent the settling pond. There is evidence that blasting appears to have occurred on SIA/CHH's property into the water table in violation of the mines permit and that the water is artificially being diverted onto the CVRD's property. It is the understanding of the CVRD that most, if not all aggregate operating permits in BC prohibit excavation within the water table. Further investigations in this regard should be undertaken by the Ministry and if this is the case, SIA/CHH should be required to cease excavating below the water table and to obtain and implement a remediation plan prepared by a geotechnical engineer to address the issue.
6. The land clearing and placement of rock materials on the CVRD's property and within the buffer still has not been properly restored to a condition acceptable to the CVRD. Hydroseeding done last year without the CVRD's approval is not considered proper restoration work. As previously requested, a restoration plan prepared by a qualified professional is required for review and approval by the CVRD prior to any work taking place on the CVRD's property. The impacted areas include CVRD lands to the west of the active quarry, to the west of the water treatment plant settling pond and the location where blast rock was dumped onto CVRD's lands. There also remains quarried rock in amongst the trees on CVRD's property beyond the 15 to 20 metre area that was cleared without permission on the CVRD's property to the west of the active quarry. Furthermore, a report prepared by a geotechnical engineer is required confirming that the rock piles that were placed on the CVRD's property or within the buffer have been

pulled back from the CVRD property and the buffer and are structurally stable and will not pose a risk to the CVRD's property.

7. The lack of any clearly defined boundary around SIA's/CHH's two properties involved with the quarry mine activities and proposed contaminated soil facility continue to be of great concern to the CVRD, given the apparent disregard of SIA/CHH to contain their works to their property. This disregard is not only evident along the western boundary of Lot 23 but is also evident along the western boundary of Lot 21 with significant sloughing of non-native material onto CVRD property from earlier soil dumping activities. The CVRD reiterates that SIA/CHH should be mandated to construct a permanent industrial grade fence along the boundary of the CVRD's property and SIA/CHH's two properties prior to the approval of any amendment to the mines permit regarding a contaminated soil facility to ensure SIA/CHH activities do not trespass onto the CVRD's property bordering their site in the future.

As an adjacent property owner that has been blatantly impacted by the mining activities of SIA/CHH, the CVRD remains disappointed by the lack of action on the part of SIA/CHH or the Ministry in addressing these outstanding issues. I request that you contact me to discuss the CVRD's concerns further at your earliest convenience.

Sincerely,



Brian Carruthers
Chief Administrative Officer

BC/ann

pc: D. Howe, Deputy Chief Inspector of Mines, Permitting
SIA/CHH
Sonia Furstenu, Director, Electoral Area B – Shawnigan Lake

Attachments

File ADMINISTRATOR/Correspondence/Ministries/le MEM SIA CHH Encroachment and Damage to CVRD Property April 27 2015