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December 15, 2021

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Stonycreek Valley Development Corp.

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Re: Legal Update

Dear Joe:

The following is a list of items our office is currently working on for the Stonycreek Valley Development Corporation:

1. The recording of the land merger subdivision plan relative to the boat ramp properties involving the Mark Matthews and Shelley Glessner properties. This plan has been approved by the Planning Commission and is ready for recording along with the Deeds that go along with same. We have prepared the three (3) Deeds that are required pursuant to the land merger subdivision plan. Parcel A will be merged with Matthews/Glessner property recorded in Deed Book 2699 Page 749 and Parcel B will also be merged with the Matthews/Glessner property recorded at Deed Book Volume 2699 Page 749. Parcel C will be conveyed from the Glessners to Stonycreek Valley Development Corporation and will be merged with Stonycreek Valley Development property at Deed Book Volume 2438 Page 437.

Additionally, the Glessners will be providing a five (5) foot wide easement along their property for a distance of 35.60 feet. With the completion of this subdivision and the recording of these Deeds and easement, this will open up the driveway off of Causeway Drive to the lake for purposes of the boat dock.

We will need the Glessners to sign a Deed and accordingly, if, Joe, you or Marcia, have their phone number, would you kindly provide same to our office?

2. Mining Permit for the Boone Deep Mine. On December 2, 2021, I received correspondence from the Pennsylvania Department of Environmental Protection with an update as to this particular mine permit. I understand this letter was sent to Stonycreek Valley Development Corporation or to you directly. Based on our telephone conversations, you did receive the correspondence, therefore, the reason I did not forward same.

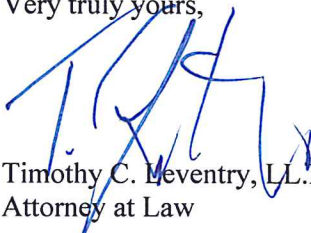
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The purpose of the December 2, 2021 correspondence was to provide an update to the public, specifically, those who participated in the informal public conference held on March 30, 2021. The bottomline is the letter states the Permit Application is under review and comments and questions that were raised during the additional public conference are being considered in the review process. The letter goes on to detail comments or inquiries specifically made at the informal public conference and the responses of DEP. Due to the fact there are five (5) to six (6) pages of comments/inquiries and responses, I am attaching a copy of the letter that may be given to all Board Members for their review of DEP's answers. The letter concludes by stating the application process is still ongoing and the first technical deficiency letter is anticipated to be sent to the applicant in the coming weeks. DEP further states that if additional deficiencies are identified with the revised permit application after the permittee responds to the first deficiency letter the permittee will be notified in writing of the identified additional deficiencies and offer the opportunity to further revise their permit. We do not know what DEP's first technical deficiency letter will state, but I am sure it will address many of the concerns raised at the informal public conference. Based on my discussions, I believe no action will be taken by DEP relative to approval/denial until at least the summer of 2022.

3. Brad Meneilly asked for an update relative to the placement of liens on arrearages. It is my assumption what Brad is referring to are arrearages in the payment of dues or the annual fees due by lot owners to the SVDC. The problem we have at Stonycreek Valley Development Corporation is that SVDC is not a form of governmental entity who could proceed to file municipal liens against parties who have not paid. For SVDC to collect against parties who have not paid, we will have to file a civil suit at the Magistrate to collect this money. We could prevent said parties from having access to the lake since SVDC is the owner of the lake and if the parties have not paid their Development Corporation fees and/or other fees, we could prevent lake access until they are paid. A problem with filing actions at the Magistrate is the cheapest filing fee is in the neighborhood of \$125 to \$130, so for each case we would have legal fees and filing fees. The filing fees are collectible from the Defendant but the legal fees are not. To set an example, I do believe you should pursue some of the higher balance delinquent accounts so word gets out that SVDC will pursue parties for unpaid fees. Please let me know.

Thank you. I wish all of you a Merry Christmas and a Happy New Year.

Very truly yours,



Timothy C. Meventry, LL.M.
Attorney at Law

TCL:cas
Attachment
c: Board Members



File 90400 U
SVDC
Re: Boone Deep Mine
(DEP)

MEMO

TO Permit Application File
and
Samuel Faith
District Mining Manager
California Bureau of District Mining Operations

FROM Jay A. Winter, P.G. *JAW* //ELECTRONICALLY SIGNED// on 11/23/2021
Licensed Professional Geologist

THRU Troy A. Williams, P.E.
Environmental Group Manager
and
Gregory A. Ayres, P.G.
Professional Geologist Manger
and
William Keefer
Chief, Monitoring and Compliance

DATE December 2, 2021

RE Informal Public Conference - held March 30, 2021
Permit submitted by LCT Energy, LP
Permit CMAP# 56171301
Boone Deep Mine

MESSAGE:

A virtual Informal Public Conference (IPC) and informational meeting was held regarding the above mining permit application via WebEx on March 30, 2021. The conference started at 1:00 PM and concluded at 3:00 PM. The IPC was held in responses to requests received by the Pennsylvania Department of Environmental Protection (Department) from Stonycreek Valley Development Corporation and Indian Lake Borough. Approximately fourteen (14) members of the public attended the virtual meeting and the Department also received written testimony/questions.

The permit application for the proposed Boone Deep Mine was submitted to the Department by LCT Energy, LP and accepted for review on October 29, 2020. The application proposes 167 acres of surface activity permit area and 760.7 acres of underground and subsidence control plan permit area acres for development mining only. This permit application is currently under review and comments and questions raised during the IPC are being incorporated into the review process.

Multiple issues and concerns were raised regarding the proposed Boone Deep Mine during the IPC and the subsequent 30-day period for written comments. The expressed concerns were far reaching and may include areas not regulated by the Department. The Department recognizes the importance of all of these concerns; however, the scope of the Department's review must adhere to the laws and regulations it is legally mandated to enforce. That enforcement must fully adhere to the appropriate laws and regulations without going beyond the authority of the laws and regulations.

The following Department representatives from the California District Mining Office (Cal DMO), Cambria District Mining Office (CDMO) and the Southwest Regional Office (SWRO) attended the virtual IPC:

California District Mining Office – Cal DMO

Sam Faith, District Mining Manager	Troy Williams, Environmental Group Manager
Gregory Ayres, Professional Geologist Manager	Bill Keefer, Chief, Monitoring and Compliance
Bonnie Herbert, Permits Clerk	Jay Winter, Licensed Professional Geologist and lead reviewer
Rich Kormanik, Surface Mine Conservation Inspector Supervisor	Amanda Leasure, Senior Civil Engineer
Lina Cui, Environmental Engineer Specialist	Bob Sporcic, Mining Engineer
Tyler Brown, Aquatic Biologist 2	

Cambria District Mining Office – CDMO

Dave Thomas, District Mining Manger	Cory Seese, Mine Conservation Inspector Supervisor
Misty Crawford, Surface Mine Conservation Inspector	Jarrod Shultz, Surface Mine Conservation Inspector

Southwest Regional Office - SWRO

Lauren Fraley, Environmental Community Relations Specialist

Department staff were available during the meeting to answer landowner/citizen specific questions related to the Boone Deep Mine permit application regarding mapping, permit requirements, regulatory concerns, and mining plans.

Specific concerns identified during the IPC are as follows:

Comment: Residents requested an explanation of where the mine entries are proposed in relations to where their properties were located.

Response: A fact sheet and map were provided to all attendees (Attachment). The proposed permit area is located in Stonycreek Township and Indian Lake Borough, Somerset County.

Comment: Residents requested an explanation of the projected timing of mining.

Response: A map showing possible projections of timing of the mining was shown to the residents. Specific dates or anticipated year the mining would occur could not be provided as that will be dependent on when and if the permit is approved.

Comment: Residents requested information on pre-mining survey with regards to private water supply.

Response: Module 8 contained within the permit application refers to background sampling requirements. All private wells within 1000 feet of the proposed permit area are sampled by the company, unless a landowner refuses access for sampling, as part of the permit application process. All of the background sampling is required to be completed prior to the application being submitted to or accepted by the Department. Additional well testing may be completed, if the permit is approved, when mining approaches a residential well supply.

Comment: Residents wondered what happens if mining contaminates, interrupts, or diminishes a private water supply. Residents requested information on water supply replacement with regards to private water supplies.

Response: A link was provided for the water supply replacement Fact Sheet.

If a private water supply has been affected by underground mining, and meets the criteria of being within the rebuttable presumption zone as established in the Bituminous Mine Subsidence and Land Conservation Act, then the mine operator, upon being notified of a private water supply problem, must complete the following:

- Notify the Department within 24 hours.
- Investigate the complaint and notify the Department of the results.
- If an alternative water supply is not available, then the company must provide a temporary water supply within 24 hours of being contacted.
- If determined to be necessary, a permanent replacement supply shall be established promptly.

The operator is relieved from responsibility and not required to replace the water supply, if one of the following can be demonstrated:

- The contamination, diminution, or interruption existed prior to the underground mining activities as determined by a pre-mining survey, and the operator's underground mining activities did not worsen the preexisting contamination, diminution, or interruption.
- The contamination, diminution, or interruption occurred more than 3 years after underground mining activities occurred within the permit area.
- The contamination, diminution, or interruption occurred as the result of some cause other than the underground mining activities.
- The claim for the problem with the water supply was made more than 2 years after the water supply was adversely affected by underground mining activities.
- The operator has purchased the property for a sum equal to the property's fair market value immediately prior to the time the water supply was affected or has made a one-time payment equal to the difference between the property's fair market value determined immediately prior to the time the water supply was affected and the fair market value determined at the time payment is made.
- The landowner and operator have entered into a valid voluntary private agreement under section 5.3 of The Bituminous Mine Subsidence and Land Conservation Act which does not require restoration or replacement of the water supply or authorizes a lesser amount of compensation to the landowner.

Any coal mining company operating in the Commonwealth, would have to abide by the aforementioned stipulations as they are described in the law, rules and regulations of the Commonwealth. The Department does not require underground operators to replace water supplies prior to mining. The Department requires the operator to provide a list of replacement supply alternatives. The alternatives listed in Module 8 and Module 22 of the Boone Deep Mine permit application are as follows:

1. For any well that penetrates the coal seam being mined, the mining plan will be altered to ensure that the well will be located within a stump of solid coal.
2. Deepening an existing well.
3. Drilling a new well.
4. Providing a storage tank to increase storage.
5. Providing storage tanks and filling them with potable or other quality water (irrigation or process water) by tanker truck.
6. Develop springs using gathering pipes or trenches.
7. Connecting the user to a public water supply.

The restored or replacement water supply may not cost the landowner or water user more to operate and maintain than the previous water supply. If the operation and maintenance costs of the restored or replacement water supply are more than the operation and maintenance costs of the previous water supply, the operator shall provide for the permanent payment of the increased operating and maintenance cost of the restored or replacement water supply.

A restored or replaced water supply, at a minimum, must:

- Be as reliable as the previous water supply.
- Be as permanent as the previous water supply.
- Not require excessive maintenance.
- Provide the owner and user with as much control and accessibility as exercised over the previous water supply.

The quality of a restored or replaced water supply will be deemed adequate, when it differs in quality from the pre-mining water supply, if it meets the Pennsylvania Safe Drinking Water Act drinking water standards or is comparable to the pre-mining water supply when that water supply did not meet these standards.

The quantity of the restored or replaced supply will be deemed adequate if it meets one of the following:

- It delivers the amount of water necessary to satisfy the water users needs and demands of any reasonably foreseeable uses.
- It is established through a connection to a public water supply system which is capable of delivering the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.
- For these above items and with respect to agricultural supplies, the term reasonably foreseeable uses include the reasonable expansion of use where the water supply available prior to mining exceeded the farmer's actual use.

A replacement water supply must include the installation of any piping, pumping equipment and treatment equipment necessary to put the replaced water source into service.

Comment: Multiple residents requested information and mapping.

Response: Maps showing the requested information were provided to the residents.

- Comment:** Residents expressed concern for potential contamination to Boone Run from the various mining-related ponds that would be located on the proposed permit area because Boone Run is one of the sources of water flowing into Stonycreek Lake.
- Response:** The stream is in the Kiski-Conemaugh TMDL and water quality-based effluent limits for parameters of concern will be assigned to the treatment ponds and sedimentation control ponds that will discharge into any of the surface waters located within and adjacent to the proposed permit area.
- Comment:** Residents asked how often the stream is monitored and how often the ponds are cleaned.
- Response:** The company monitors the discharge monitoring points monthly and submits the results to the Department on a quarterly basis. The ponds are inspected by the Mine Conservation Inspector (MCI) monthly to determine if the ponds need any maintenance, including removal of sediment (i.e., cleaning).
- Comment:** Residents were concerned about mining impacts on the public water supply wells utilized by Indian Lake Borough and whether they were being evaluated for possible contamination from the past mining on the western side of the lake and the proposed mining.
- Response:** An evaluation of the public water supplies is being conducted by the Department and if the Department determines that the mining would impact a public water supply, a permit will not be issued.
- Comment:** Residents requested an explanation of the potential for dust, noise and blasting during the operational life of the mine.
- Response:** A blasting inspector will be reviewing the proposed blasting plan proposed by the company. Information on the potential for noise is provided in Module 16 of the permit application. The dust control measures are to tarp the trucks entering and departing the mine, spraying water on the haul road when it is dry, and to keep the trucks separated from the coal loading area and prevent trucks from driving on the extracted coal. This information is currently being reviewed by Cal DMO staff.
- Comment:** Residents asked about the time frame of the permit review.
- Response:** The permit review is ongoing and usually takes about 1 year to complete after the permit is accepted for technical review. However, this review time can vary depending on the complexity of the proposed mining operation and if multiple reviews are required to address deficiencies identified with the initial application and any subsequent revisions. Residents were told to contact the Department in 6 to 9 months to see how the review has progressed.
- Comment:** Residents asked about base line monitoring and what parameters are analyzed.
- Response:** The company provided background monitoring data for streams, springs, residential wells and preexisting acid mine drainage sources. Parameters analyzed for background information and monitoring points included the following: pH, temperature, alkalinity, acidity, iron, manganese, aluminum, sulfate, suspended solids, specific conductance, flow rate and/or static water elevation. Baseline analysis for the NPDES permit application included osmotic pressure and total dissolved solids, in addition to the parameters identified above.
- Comment:** Residents asked if there would be any visible activities west of State Route 160.

- Response:** No surface activities west of State route 160 are currently being proposed.
- Comment:** Residents asked how long the mine would be operating.
- Response:** The mine is currently proposed to operate for 8 years. Projected timing of the mining is shown on the Module 22.4 map.
- Comment:** Residents asked about the potential for mine subsidence caused by the mining and if there is a rebuttable presumptive zone similar to the water supply replacement provisions.
- Response:** The mine is currently proposed for room and pillar mining with no pillar retreat mining. The mine will leave coal supports (pillars) in place with a safety factor of 2.0. Based on these design features, the potential for subsidence has been reduced. There is no rebuttable presumptive zone for mine subsidence.
- Comment:** Residents asked which structures were covered for mine subsidence caused by the mining.
- Response:** Mine subsidence is not expected to occur over the proposed mine permit area. Residential, commercial, government owned buildings, and appurtenant structures are all covered by Act 54. The mine is currently proposed for room and pillar mining with no pillar retreat mining. The mine will leave coal support in place with a minimal safety factor of 2.0.
- Comment:** Residents asked if the mine was self-draining or would be inundated when mining was completed.
- Response:** The mine is projected to be sealed and allowed to flood completely upon closure. Based on water level data from piezometers installed as part of the application process it is not anticipated that the mine pool will discharge to the surface. All modern mines are developed and closed in this manner.
- Comment:** Residents asked if the Boone Mine would contaminate the public water supply wells utilized by Indian Lake Borough in a similar way that contamination occurred on the western side of Indian Lake.
- Response:** The mine is not predicted to contaminate the public water supply wells. If the Department determines during the permitting process, an underground mine has a high potential to contaminate public water supplies, then the mine will not be issued a permit to mine coal. Water quality data from both the eastern and western sides of Indian Lake are being analyzed as part of this permit review. Additional testing may be required of the applicant to prove that the proposed mining will not contaminate the public water supply wells as well as Indian and Stonycreek Lakes.
- Comment:** Residents asked if the water supply tanks and distribution lines can be further protected by the Department.
- Response:** The mine is currently proposed for room and pillar mining with no pillar retreat mining. The mine will leave coal support in place with a minimal safety factor of 2.0. Mining under the water supply lines and storage tank(s) is projected to be 50% coal extraction with no subsidence predicted. If the company and Indian Lake Borough reach a private agreement for additional coal support, then that additional coal support information would be incorporated in the mapping and permitting requirements if a permit is issued for the proposed mine.

- Comment:** Residents requested an explanation of the legal requirements for blasting, how people will be informed about blasting activities during the mining operation and what can be done to document a residential structures condition.
- Response:** A blasting inspector will be reviewing the blasting plan proposed by the company. The propose blasting schedule will be published in the local newspaper as a public notice. A pre-blast survey will be offered to residents.
- Comment:** Residents wondered if there was any recourse in the event Indian and/or Stonycreek Lakes are contaminated by mining, like the way Dark Shade Creek in Central City is a “sulfur” creek now and has been for many years.
- Response:** The review of the permit application materials and compliance monitoring/inspections by the Department, is what prevents streams, lakes, and the environment from being negatively affected by mining activities. The mine that the residents referenced in their question operated prior to the establishment of the Federal Surface Mining Control and Reclamation Act (Act), which comprehensively regulated coal mining. These regulations would not have allowed that pre-Act mine to be mined in an up-dip manner which allowed any accumulated groundwater and associated acid mine drainage to freely drain from the mine. Both techniques are prohibited under the Act.
- Comment:** Residents asked if the existing ponds on the surface mine permit were the only ponds to be utilized by the deep mine or would there be additional ponds. There is concern for water quality and the potential contamination to Boone Run from ponds located on the proposed permit area.
- Response:** Site runoff from precipitation will be settled and discharged according to water quality-based effluent limits. The proposed stormwater pond and mine water treatment configuration is different than the existing surface mine ponds configuration. The proposed configurations are based on design standards for the permit area for anticipated stormwater and treatment flows. The stream is in the Kiski-Conemaugh TMDL and water quality-based effluent limits will be assigned to the treatment ponds and sedimentation control ponds. The NPDES permitting process was explained in general terms.
- Comment:** Residents asked how much bond is proposed for the permit area. Is there a bond provided for stream impacts?
- Response:** The subsidence bond will be \$10,000. The mining and reclamation bond is currently estimated to be \$4,265,013.00. This amount would be used to reclaim the mine area if the company was not able to fulfill their reclamation responsibilities. Bonds for water quality impacts have not been set yet, since mining has not started and no stream impacts can be associated to the Boone Deep Mine. If the permit is approved and at some time in the future, surface water impacts are identified, the permittee will be required to establish a bond that will be sufficient for the restoration of the surface water.

No additional comments were received by the Department.

Please note, the Department has not made a final permit decision, as of this date. The application review process is currently ongoing and the first technical deficiencies letter is anticipated to be completed and sent to the permittee in the coming weeks. If additional deficiencies are identified with the revised permit application after the permittee responses to the first deficiency letter, the permittee will be notified in writing with the identified deficiencies and offered the opportunity to further revise the permit application to resolve the identified deficiencies. Anyone that attended the IPC will be informed of the Department’s final action.

