



DEVLIN GAILUS
BARRISTERS AND SOLICITORS

Our File: 1291

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Via Email

Canadian Environmental Assessment Agency
805 - 1550 Alberni Street
Vancouver, BC V6G 1A5

Suite C-100 Nootka Court
633 Courtney Street
Victoria, BC, Canada V8W 1B9

Telephone: 250.361.9469
Facsimile: 250.361.9429
www.devlingailus.com

Reply to: Carly Chunick
Mobile: 250.508.0450
E-mail: carly@devlingailus.com

Attention: Andrew Rollo, Project Manager, Raven Underground Coal Mine Project

Dear Mr. Rollo:

Re: *Raven Underground Coal ("RUC") Project; CEAR reference number 10-03-55529*

On behalf of CoalWatch Comox Valley Society ("CoalWatch"), we write further to our letters of August 16 and September 2, 2010 (co-written by the Environmental Law Centre) respecting the RUC Project. In those letters we addressed the need for a joint federal/provincial independent expert review panel and the need to post all public comments on the Canadian Environmental Assessment Registry as they are received for the RUC Project. These letters highlight a host of social and environmental concerns pertaining to the proposed mine development and to the federal and provincial environmental assessments ("EA") of the RUC Project. Therefore, we will not reiterate those concerns in this letter, but instead, we focus on two main issues arising from the Canadian Environmental Assessment Agency's (the "Agency") Background Document for the RUC Project: (1) project scope and (2) scope of the assessment.

Project Scope

Our first concern pertains to the scope of the project to be assessed. The Background Document contains a project summary on pages 4 and 6 as proposed by the proponent, Compliance Coal Corporation ("Compliance"), but nowhere does the document describe the project for the purpose of the federal EA. We are particularly concerned because, as a result of the recent amendments to the *Canadian Environmental Assessment Act* (the "Act") the Minister can limit an EA to one or more components of a project (s. 15.1). As the Background Document is silent on the scope of the project to be assessed, we fully expect that the entire project as proposed by Compliance will be subject to the federal EA. The entire project to be assessed must include not just the mine site but the entire aboveground and underground footprint of the mine including the transportation routes, expansion of the port facilities and any other off-site storage or processing facilities.

In determining the scope of the project, the Agency should also be guided by section 16(1) of the Act, which lists "cumulative environmental effects" as a factor to be considered in a comprehensive study. Because cumulative environmental effects extend to include unrelated

present and future developments, it only makes logical sense to include the entire project as proposed, including *all related* development and activities in the EA of the RUC Project.

Scope of the Assessment

CoalWatch's concerns respecting the scope of the assessment have largely been addressed in our letter of August 16th in which we describe the insufficiency of a comprehensive study for the RUC Project and make the case for a joint federal/provincial review panel. Therefore, the following comments are intended to supplement that letter and to directly address the scope of the assessment as described in the Background Document.

After a careful review of the scope of the factors listed on page 11 of the Background Document and the additional matters on pages 12 to 14, we are concerned that the following items are either too vague or altogether absent:

- Comprehensive aquifer mapping and modelling is required for proper assessment of hydrology and hydrogeology, the effects of any contaminants on watersheds, Baynes Sound and biota as well as effects of water diversion.
- Greenhouse gas ("GHG") emissions and the potential effects on climate change must be assessed, not just of the RUC Project development and operation, but the purpose and outcome of the mine. If the Agency will not examine GHG emissions relating to the product of the development (i.e. the coal itself) as a factor, the Agency should consider it in the item described as the "need for and purpose of the project" on page 12 of the Background Document. In our opinion, the fact that the Agency intends to rely solely on the proponent's perspective to define the need for and purpose of the project is biased and unfair.
- The proposed scope of factors is slim on social effects of the RUC Project. Section 2(1) of the Act states that the term "environmental effect" includes "socio-economic conditions". Therefore, the scope of the assessment must include an examination of the effects on items such as business, tourism and property values, particularly near the mine site and along the transportation route, including tourist destinations such as Ucluelet, Tofino and the Pacific Rim National Park, which rely on the same transportation route as the only land access point for tourists.

These comments should be read in conjunction with our earlier letters of August 16 and September 2, 2010. If you have any questions or concerns, please contact the writer.

Yours truly,
DEVLIN GAILUS



Carly K. Chunick

cc. client