

## INFORMAL PUBLIC CONFERENCE

### DICKENSON RUSSELL COAL COMPANY RENEWAL APPLICATIONS PERMIT NUMBERS 1301838 AND 1301839

JULY 17, 2014

**HARVE MOONEY:** Good morning, everyone. My name is Harve Mooney. I'm the Legal Services Officer with the Virginia Department of Mines, Minerals and Energy and I welcome you all to Lebanon this morning. We're going to conduct two concurrent informal conferences on Permit Renewal Applications. This particular conference is being conducted in accordance with 4 VAC 25-130.773.13 of the Virginia Coal Surface Mining Reclamation Regulations.

This is a fact finding forum to receive written and oral comments and any relevant information from anyone who has an interest or who may be adversely affected by the Division's review and decision on the permit renewal application. The two permits involved and in the interest of time, we'll do both at the same time for Dickenson Russell Coal Company Permit Number 1301838 and Dickenson Russell Coal Company Permit Number 1301839. This is not an adversarial proceeding. It is not a forum for public debate. But we are interested in your information and your comments. The agency looks at and we value your comments and we will use those in the evaluation of the decision concerning these two particular applications.

Under 774.15 of the Regulations, "A valid permit shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration". This application requirements and procedures for renewal are set forth under Part B of this regulation and Part C establishes the approval criteria for our agency. We have copies of the permit renewal maps placed here, and we also have displayed the actual electronic application that deals with this particular permit. You will be able to see both applications.

Currently staff members we have here in reference to these two applications are the two Review Inspectors, Lesa Baker and Janet Yates. We have a Water Quality Specialist here, Rodney Baker and also in Max Banas. Our Chief Engineer is Mr. Tim Browning. We have the field inspectors who oversee the permits, Glen Comer, Richard Altizer and Area Supervisor James Meacham. And our new Hearings Coordinator, Gloria Clark.

For those who have signed up to present comments and objections, we'll record those in the record. A written transcript of this proceeding will be provided to you. The final decision on the Permit Renewal Application to approve, disapprove or require additional information for consideration must be made within 60 days of this particular proceeding. The Permit Renewal – any person who is adversely affected by that decision will then be informed on the decision and the process to require further administrative review for final determination.

And if you have signed up and would like to present comments, if you would please come forward as we call you. You should have signed in on the sheet in the back and we'll call you one by one and have you come forward.

**MATT HEPLER:** I don't see a microphone anywhere. You're just having them come up to the table there?

**HARVE MOONEY:** We have two recorders here and..

**MATT HEPLER:** Okay.

**HARVE MOONEY:** And they work quite well and like I said, we will distribute upon completion within at least generally five to ten days a copy of the transcript of the proceeding. So you'll get that even before you get the final determination on it. Okay, Shelley Williams? Comments?

**SHELLEY WILLIAMS:** No comments.

**HARVE MOONEY:** Mr. Hodges?

**STEVE HODGES:** I have no oral comments at this time. Mr. Mooney. Thank you.

**HARVE MOONEY:** Ms. Slaughter?

**AMANDA SLAUGHTER:** No comments.

**HARVE MOONEY:** Mr. Dye?

**IAN DYE:** No comments.

**HARVE MOONEY:** Mr. Jerry A. Smith?

**JERRY A. SMITH:** That's me.

**HARVE MOONEY:** Please make yourself comfortable. Give us your name and address and then you may proceed with your comments.

**JERRY A. SMITH:** Okay, my name is Jerry A. Smith. My address is 640 Egg Farm Road, Cleveland, VA. And I'd like to start by saying "Good morning". And we have a problem with this tipple and what we – or they're a neighbor of ours – and where we're from, good neighbors, for instance, on a farm is a good fence. Keep your stuff off of me and I'll keep your stuff off of each other. And we have a problem with this neighbor with dust. And it goes further than that. It's the road, heavy truck trafficking, damaged asphalt that we have to travel on, plus our roadways are dirty with coal dust.

Every time you travel on them, you have to wash your vehicle. If not, it looks like it come from the coal mines. And plus we're breathing this dust 24/7 when they're operating. And we all know that what people gather from working in the coal mines, black lung. And you know, I pulled my time in the coal fields and now I'm disabled and not able to work, but still yet I'm living in this. And I have some photos that I'd like for you all to look it that were taking down in front of the preparation plant and these are coal trucks traveling within 2 to 300 hundred yards of my neighbor's property. And this is the air quality that we have to breathe and plus where we go out on our porches to sit down, we have to take two rags, a wet one and a dry one to wash the coal dust out of our chairs so we can sit down, and then we have to dry it off before we can sit down.

And there's just so many complications by living beside of one of these operations. I mean, we don't live – all of us don't live in Abingdon, Bristol, Kingsport, away from these things. We have to live right here beside of this operation. And we were there – our ancestors were there long before this coal company ever come about. So we inherited, most of us, this property. And plus the damage they have done to our property, nobody wants it. Nobody wants to live in these...

**ROBERT BAILEY:** Conditions.

**JERRY A. SMITH:** – yeh, conditions, they don't want to live there because of the dust. It's just dirty, nasty. And it is just a bad situation. And I'd like for DMME to consider tearing this operation down and reclaiming it and if they would like, they have plenty of locations to move to that there's not any population. And there wouldn't be near the hazards that they are where they're located. And that's about all my comments.

**HARVE MOONEY:** May I keep these photos?

**JERRY A. SMITH:** Yes you may. You sure can.

**HARVE MOONEY:** I can make copies of the CD.

**JERRY A. SMITH:** This here is on a DVD and those are copies.

**HARVE MOONEY:** Okay, thank you.

**JERRY A. SMITH:** Thank y'all. That's all and I appreciate you listening to me.

**HARVE MOONEY:** Sure.

**GLEN COMER:** We've had two additional people come in.

**HARVE MOONEY:** Mr. Robert Bailey?

**ROBERT BAILEY:** Good morning. My name is Robert Bailey. I live at 80 South Clinchfield Drive, Clinchfield. And I brought some stuff from the house and things that I need to show, you know, that I think that you all need to see as well as what we're living through. This is just one of the things that come out of my building. That's what I live through every day. I mean, you know. I've got children that need – I've got a doctor's report here that she has to be kept inside if the winds a blowing because the dust gives her ear infections.

Let's see here. I got some other things here. And a lot of children have to take allergy shots. I mean from eight years old down to two years old. And the dust you can see it and eat it of the day, I mean when they're running. And I've made hundreds and hundreds of calls to the Department of Environmental Quality for the dust – to a Mr. Don Hilt in Abingdon. I was going to get you the letter from the doctor – let's see here – right here is the letter – from the doctor and here's a thing from the Bristol Herald Courier that we had put in. I'd like to submit that too, please. And this here shows you at the bottom the trucks that's coming through. And this was just a wipe off my trailer. Clinchfield had brought me a pressure washer and this was the only reason I was bringing this up – they said "well, we're going to buy you a pressure washer, but we don't want you to tell everybody else because we can't afford everybody one. And that sort of made me mad, you know, knowing they got the money, you know and you can look on the back page of that, turn that over, and there's, okay, this water bottle, right here. My mom, that's my mom's house where she had brought carpet for my son. And this was about four months after they moved in, this is what they vacuumed up. That's how black the water was in four months. And this was just another one taken at Stanford/Clinchfield. And the truck traffic. Oh, my, you just – it used to be years ago that when they ran by train, you know, you didn't have this trouble . But now, you know, to go from where we used to go 10 miles, it'll take

us 20 minutes, it now takes me 45 minutes – either way, either to Lebanon or to St. Paul. And the houses, I mean, there has never been a house that's been saved that's been caught on fire that didn't burn to the ground because of this coal dust that's in the houses. You go through the house and you go to the attic, and when you come out of that attic, sir, you will look like that helmet right there. Every house in that place. And that dust is just polluting to creek, the Dumps Creek. DEQ or whoever it was at the meeting, they said that was one of the most polluted creeks in the State of Virginia. And see they've got a sludge pond at the end of that thing that's been there since '57. And like I said, when I was little, we rode our motorcycles on it, and we had dust that deep, you know and we played football on it and stuff. And this sludge pond is maybe 20 yards from Dumps Creek. It's up above Dumps Creek and then they've got it rocked. That's been like that for 50 some years. That's got to be going into Dumps Creek, you know, sir. There's no other way. I mean, it's got to seep into Dumps Creek. And they put truck washers for the trucks, but they didn't put the right kind. And we asked for different stuff. We asked for like stuff – they cover their coal piles. You know, when you get a bid coal pile, and when the wind blows – and see the wind blows our way 98 percent of the time. Ninety-eight percent (98%) of the time it blows our way. Everybody is – well there's a lot of people that didn't get to come because of funerals and stuff like that and they had to work. And when the trucks come out of there, they're wet with coal. Okay, when that gets on that road, it turns dry and it turns into dust. And when you're setting out there – sometimes I've been setting at that stop sign and try to pull out and you couldn't pull out for not seeing what was coming down the road because of the dust from where the trucks were coming across that road to that scale house that Jerry already showed you. And I live maybe a hundred yards from that scale house.

But what's got me concerned more than anything is Dr. Hendricks from West Virginia University done a survey and it proved or he proved what it is to live beside of these places like this. It was in the Bristol Herald Courier. I don't have it right now, but I can get it. And that was the big thing that I was wanting to show today. But it was, like I said, that was from Dr. Hendricks and I just sat down and thought for 20 minutes – this here I'll keep – I'm not saying nothing – within 20 minutes I thought of over 50 names of people that's got cancer that lives in a two mile radius that's died or that's fighting it now. And a lot of them under 45 years old. Jerry had a nephew that was 42 years old that died of cancer, you know. I'm just worried about the things because, you know, well, let's see here, I just have a few more things and I'll be done and I'll get out of your way. Let's see here. Clinchfield asked me "Well, what would you take for your property?" And I said "Well, I said, you pretend like I'm not living beside this tipple or this scale house,

you pretend like I'm living in Abingdon. You pretend like I've got a nice creek and I'm glad I have a creek run behind my house. That creek or we've done survey or whatever and that creek is not nowhere polluted like Dumps Creek which runs into Dumps Creek. But they weren't making me an offer because they knowed they couldn't make one by the way my house looked. DMQ or DM from Abingdon come with Walt Hilt and the lady over Walt Hilt, I can't remember her name. But she came to visit the dust. She come to set on my porch. She wouldn't sit down on my porch until I cleaned her a place to sit down because of the dust. And I forget her name. I can't remember it. But for most of my saying, I was just concerned over what or about the cancer and this and that because we've asked for things that they wouldn't do which all these other places has done. You know what I'm saying. And I wish I could say more, but I just, you know, I just stop at where I think is enough. But I'll leave everything else with you that I brought today that you can accept. I'm going to keep the one with the names on it. I don't want to produce their names. Let's see here. Right here it is. I'm going to keep that. But all this other, I'm going to leave with y'all. And I thank you for listening at me and I wish I could tell you more. I wish you had to live – no I don't wish that on nobody, but that is not a place to live when they're running. It's not a place to live when it's running. My house is a brand new double wide. It's eight years old and when it was running four or five years ago, I was washing my double wide three and four times a summer. My mother's house is right beside mine. It's an old house where she lives and I was washing it three and four times a summer. And in this five years' time, my pressure washer has give out on me. And now I need another one. And you know what a pressure washer cost. And when you're on a fixed income like I am, you live where you have to live. But I'll get out of your way and I appreciate everything that you've heard of me today. And y'all have a good day.

**HARVE MOONEY:** Thank you sir.

**ROBERT BAILEY:** Let's see here. Yeh, I was going to keep this here. And I believe that's the names and I was wanting to keep this here and this here I was going to keep. This was wrote for me too and I'll just keep that. But all the other you can have. And I appreciate it. Have a good day.

**HARVE MOONEY:** Danny Semerely?

**DANNY SEMERLY:** Danny Semerly. 111 North Clinchfield Drive, Cleveland, VA. I live in sight of that plant and dust comes up my way and it's got to be bad for our health; doing damage to our lungs. And a fire hazard if it does catch on fire, our house is going to burn down real quick. And the roads get dust on them and

makes them slick. And sometimes when it rains, when the plant was running, the dust would be so bad that it'd cover your window on your car and you couldn't see for a little while till you got your window cleared to drive down the road. And it gets on your houses and your vehicles. I think one woman had to move because she worked at the bank and she drove down through and it'd cover her car every time it rained or anything. And it has to be getting into Dumps Creek because that pond is right over from my house. And sometimes it's got water on one end and sometimes the wind will blow and just carry the dust still after the plant has shut down. And it deposits mud and dirt on the roads and everything. And we need some help. And if y'all can help us do anything, we appreciate it. And thank you.

**HARVE MOONEY:** Thank you, sir. Mr. Josh White?

**JOSH WHITE:** No comments.

**HARVE MOONEY:** Mr. Matt Hepler?

**MATT HEPLER:** Thank you for agreeing to meet with us today. So I am Matt Hepler. I live at 101 Clover Place, Appalachia, VA and I work for the Southern Appalachian Mountain Stewards. We at the Southern Appalachian Mountain Stewards or SAMS have been doing water monitoring, water testing and I've been kind of the lead on the water testing program for about three years now. And we have done water testing all across southwestern Virginia and particularly in the coalfield counties. This water monitoring program has included physical monitoring and heavy metals testing and the periodic reviewing of discharge monitoring reports. We have tested in Dumps Creek on several occasions, but during one of our kind of reviews of discharge monitoring reports, we were looking at this particular permit and we found that the combined kilogram loading of total dissolved solids at outfalls one through four is greater than a million kilograms a year. However, when we looked at the TMDL watershed for Dumps Creek, we found that the waste load allocation and that was allotted for the whole watershed was to be 866,000 kilograms a year. Both of those numbers are rounded. So we at SAMS are greatly disturbed by this; particularly since we have many members who regularly use the Clinch River. I, myself is an avid canoer and use the Clinch River a lot. So, I mean, it's our understanding that steps may have been taken to correct this since then. But if not, we still ask that this permit renewal be denied until it is demonstrated that these outfalls are in compliance with the TMDL. So this plant, well, we know, it's been in temporary cessation for a long time and it hasn't been running, I believe, because it doesn't have an air permit. During the review of this permit, we found that the permit or that there

was an ask for an indefinite extension of that status. We at SAMS feel there is not good reason to pride an indefinite extension. We are somewhat worried about given the state of, I mean, I don't know, just given the state of the coal economy. I'm not sure that giving a plan an indefinite extension is a good idea just because not many members at SAMS feel that coal isn't going to come back. And like, really, we think that steps that need to be start taking for just going into reclamation and starting reclaiming these sites.

So the next thing is dealing with the bond. Even though it's a different company, we know that A & G just forfeited on four of its bonds and that has us very worried. And we just ask that you take a good look and because of that and because it was part of the pool bond, we ask that you take a very good look at this permit's bond, particularly now that we know that the waste load allocation targets are not being met. So make sure that there's enough money in there so that, yeh, just that the bond is high enough to deal with the water quality portion of this permit. And finally, I think we would just like to ask or reiterate the point that we want or we would like to see steps taken to just have this plant permanently closed and the reclamation to begin. And so that's all I've got. And I thank you for having us.

**HARVE MOONEY:** Thank you. Alex Beer?

**ALEX BEER:** No comments. Thank you.

**HARVE MOONEY:** Rebecca Quesnell?

**REBECCA QUESNELL?** It's Quesnell.

**HARVE MOONEY:** Oh, I'm sorry.

**REBECCA QUESNELL:** No comments.

**HARVE MOONEY:** Willie Dodson?

**WILLIE DODSON:** Thanks for giving us this opportunity. I appreciate the opportunity to hear other folks from Southwest Virginia express these concerns because we have similar concerns where I live. I live at 11707 Highland Drive in Pound, VA. I'm also a member of the Southern Appalachian Mountain Stewards and I support everything that my friend and colleague, Matt Hepler, just said. My main direct concern is with the quality of the Clinch River. I'm very empathetic to the folks who live closer to this and the issues they're going through. I've seen that happen in Wise County and in other parts of the coal bearing counties of Appalachia. It's the same story and needs to be addressed. Where it hits my life

most directly is with the Clinch River. I think that the coal economy is on a major down turn. And if we're going to or it's scary to hear about all the coal jobs leaving the region and reclamation is a challenge, but it's an enormous opportunity. And so I would just like to underscore what Matthew Hepler just asked that y'all do and take a look at the bond; make sure that if the companies or if Alpha is not going to take care of it and they do end up forfeiting the bond that there is enough money there for the state to take care of it and that this site be reclaimed so that area that is already excavated can turn from being a problem into a real opportunity for some other sort of economic development around eco-tourism and utilizing this real jewel that we have that is the Clinch River Watershed in southwestern Virginia. And that's all I have to say. Thank you very much.

**HARVE MOONEY:** Thank you very much. Marley Green?

**MARLEY GREEN:** Thank you all for your time. Yeh, Marley Green; also at 11707 Highland Drive in Pound. I'm a staff community organizer with the Sierra Club. And I think that primarily why I'm here is to support the folks in the South Clinchfield and the many that weren't able to come today that I know have some similar concerns as to what you've heard as far as impacts to health, impacts to property and I think that the way that this permit has operated in the past has really hurt people. And I think that if we're going to renew the permit, we need to make sure that that's not happening any more. And I encourage DMME to consider not renewing this permit. I think that it's been a real danger to the community and I think that's the big reason I'm here is to support the folks in South Clinchfield. I think the questions about if there are or if the bonding and the guarantee that Alpha is going to reclaim this permit, I have doubts about whether the bonds are high enough to cover the real cost of cleaning this up. And if, you know, DMME and the State and taxpayers are going to be left with the bill when it comes due, you know, really I think the question of whether the coal economy is going to come back enough for this plant to open up should be a really major question. And I'm not satisfied and I think a lot of people aren't that it is going to come back. And so I think looking at moving towards reclamation and taking the infrastructure down is really what I'd like to see DMME pushing for and to using its authority to make sure that we're cleaning up this mess. And yeh, I think like Willie said and like others have said that I am a big user of the Clinch River and I know lots of people who aren't able to be here today who are concerned about the pollution coming off of Dumps Creek and the massive load that's coming off of this particular permit and what that's doing to the Clinch down river. And I think the Clinch is absolutely crucial and the health of the Clinch River is absolutely

crucial to future economic development in Russell County and Wise County and so on. And I think permits like this one that are continuing to pollute the Clinch really endanger that future economic health. And I think, you know, where DMME's authority to support clean up and to support the increased health of the Clinch River, I encourage you all to use that authority. So that's all I've got for today. Thank y'all.

**HARVE MOONEY:** Thank you very much. I've noted so far that the comments have been geared toward mainly towards the Permit Number 1301838. Is there anyone who wishes to voice comments in reference to 1301839 which is the Hurricane Fork permit.

**ROBERT BAILEY:** Harve, I think a lot of the truck traffic comments were actually directed towards the Hurricane. I mean, I don't want to speak for others, but can I talk on that part?

**HARVE MOONEY:** Sure. Please just come back and give your name and address again, please.

**ROBERT BAILEY:** My name is Robert Bailey, 80 South Clinchfield Drive. The man that runs part of the coal trucks out of that, I call it the Shaft. It's the Moss 2, I believe is what y'all call it. Just talking to him, he runs seven coal trucks a day. And he hauled 127 loads a day to that scale house where I live. That's not concerning all the trucks coming from Lebanon, St. Paul and every place else. I'm not concerned about or talking about that. I'm just talking about his and it's Laurel Mountain Trucking. And I believe or I have noticed that they have took part of that place down, I believe. And I would like to see it all took down. I mean it looks better now than it did. But you're still getting dust out in that road at Moss 2, you know, from where the dust and coal is just laying around. But I just wanted to make that statement – that many trucks and I appreciate you.

**HARVE MOONEY:** Thank you. Are there any other persons who wish to comment?

**STEVE HODGES:** Mr. Mooney, I'm Steve Hodges from Abingdon. I'm not making an oral presentation, but I understand you would accept written comments on the issue before you?

**HARVE MOONEY:** Yes sir.

**STEVE HODGES;** And I'll like to present a couple of short things for the record for consideration by the Division. Thank you.

**HARVE MOONEY:** Is there anyone else who wishes to comment? Okay, at this point and time, we will take the information that you all have provided and within 60 days, there are three options by the Department of Mines, Minerals and Energy we can either approve the permit, deny the permit or request additional information as to or in reference to the many concerns that you voiced here today. At that point and time, hopefully we can make a decision on it by then. If not, we may request an extension, but you will see notification from us saying that we have requested additional time to make that determination. But we generally make it within the 60 day period. At that point and time, if you've commented today, you'll receive from us a copy of whatever decision that we made. And within that decision, it will also provide you with avenue for any additional administrative rights that you may have in reference to that particular decision. Again I thank you all for coming. I do appreciate your comments. We do take your comments into consideration and we take them seriously in making our determinations. And with that being said, I will close the hearing today and thank you once again for your attendance. Thank you.

**MATT HEPLER:** Thank you.

**STEVE HODGES:** Thank you.

Meeting was adjourned at 10:40 A.M.