

## Breaking News on SIA Permit June 19, 2013

### Permit is on the way!

At a meeting this morning between the MOE, Ministry of Mines and the CVRD it was confirmed that a final permit will be recommended for issue for the SIA Contaminated Soil Facility “within the next few weeks”. MOE staff members are convinced that the SIA application can now be positively approved because it satisfies “the standards of the day”, and that risks, while acknowledged to be greater than zero, are “adequately reduced with the system proposed by SIA”. Unless “something major comes out of left field” there is, in their view, no impediment remaining to issuance of the permit in the view of the technical personnel and the statutory decision maker within the Ministry of Environment. This applies to both the water and airborne pollutants that could emanate from the operation. The Ministry and Government in general should know that allocating the SIA permit will bring great and completely illegitimate anguish to our community.

While I am not one bit surprised at this conclusion, I do not believe that the MOE decision is the correct one. No amount of technical justification is adequate to permit the deliberate addition of a contamination risk to a community watershed. My reasons for this conclusion are outlined below.

1. Recent testing by MOE demonstrates that violations of the Environmental Management Act (EMA) are occurring in the South end of the CVRD with contaminated soils that would normally require a transfer permit being dumped on private land parcels by major private companies without the required chain of custody and prior chemical characterization being done. Metchosin Properties on Goldstream Heights and Don Mann on the South Shawnigan road have already been shown by MOE sampling to be in non-compliance with soil relocation requirements, in effect creating new contaminated sites, the unwanted outcome to be avoided as the most important result of the legislation. Evans Ready Mix on their Malahat property is the latest catch, the same company that is operating the Koksilah landfill in a community watershed. If they cut corners elsewhere, what confidence should we have for their officially licensed site, given that monitoring is self-initiated and problems self-reported.
2. Key pollutants found in MOE sampling that exceeded thresholds that would trigger a contaminated soil relocation agreement included sodium and polycyclic aromatic hydrocarbons, PAH's. “PAHs occur in oil, coal, and tar deposits, and are produced as byproducts of fuel burning (whether fossil fuel or biomass). As a pollutant, they are of concern because some compounds have been identified as carcinogenic (cancer causing), mutagenic (mutation causing), and teratogenic (birth defect causing).” PAH compounds are not trivial contaminants.
3. SIA received a contaminated allotment from a trucking company that demonstrated that even a reportedly well-run site can receive material that

is not properly designated. Their case was diligently handled in this particular instance because quarry staff noticed and the owners took appropriate action, but the site where this occurred was on the lot next to the Stebbings Road quarry where the material was dumped immediately adjacent to Shawnigan Creek. The material, though moved to a containment cell is reportedly still there pending legal action by SIA against the dumper. “Accidents” of this kind are real risks and demonstrate why they should not be countenanced at all in a major community watershed

4. The SIA permit situation is about risk. The Active Earth plan for the site purports to minimize the risks. We are asked to believe that SIA and Active Earth are both willing and capable of guaranteeing a high level of self imposed testing, monitoring and remediation of problems for the next fifty years and beyond – through 200 year storms, changes of ownership, seismic events, facility breakdowns, liner failures, fake manifests and so on. Soil dumping firms are already unable or unwilling to live up to the most basic terms of the contaminated soil regulation, let alone much more stringent ones that appeared in the draft permit. The ability and willingness to pay for compliance with a strict regime is contingent upon continued profitability of the operation over half a century, something that most certainly cannot be guaranteed.
5. Monitoring of pollutants may well find contamination, sooner or later, in the underlying aquifers or streams leading to Shawnigan Lake. If this materializes it is virtually irreparable, regardless of bonds offered by or required of the proponent. Once the pit is finished and the proponents and their successors have moved on, it is likely that the local government and its local taxpayers will be left with the responsibility and the financial burden to remediate contamination, not those who enjoyed the financial benefits of the permit. Financial sufficiency of a mining company over fifty years is unlikely and a continued presence once the quarry is fully used up is even more unlikely. We already have examples in our watershed of problem-producing gravel pits being abandoned by bankrupt or discontinued companies once the gravel resource was extracted.
6. The risks are not confined only to water, but also to the airshed from processing permitted volatile components such as aromatic hydrocarbons, a fact that has never been discussed with the public during the permit generating process, but appeared as a surprise in the draft permit. “Non-leachable contaminants” was all that was said to be involved and all the safeguards promised were only about water.
7. The site at Stebbings is an unsolicited application from a landowner with major financial interests who happens to have a quarry that must be filled to meet mine reclamation standards, not the result of a deliberate, criterion-referenced siting procedure that would assess the risk/benefit of alternative locations for a full-scale contaminated soil remediation and landfill operation with security of drinking water supplies foremost among the concerns.
8. Shawnigan already faces a number of risk factors that place the long term health and adequacy of the water supply at risk: they include existing and

- looming climate change impacts, extensive habitation in the basin depending on in-ground septic fields, extensive private land logging in the uplands that make the streams flashier, disruptive and widespread vehicle access to the backcountry on resource roads, active and abandoned gravel pits contributing siltation to the creeks, fecal coliforms from domestic animal populations, ongoing population growth pressures and a fully licensed water supply for approximately 7000 people. Treating the SIA application as a single item when the basin is experiencing multiple threats and huge cumulative impacts of great public consequence is simply irresponsible for a Ministry of Environment.
9. The CVRD has offered to work with the Ministry of Environment to conduct a proper siting effort within the regional district because the District recognizes the need for such facilities. Such an effort would have to be based on a thorough land search, based on sound criteria and effective public engagement. Asking the local public if they agree with a single imposed choice is not proper public engagement. To date the Ministry has not responded at all to the offer of collaborative site search.
  10. Local Shawnigan groups and the CVRD will be faced with publicly volatile and legally expensive initiatives to contest the SIA permit. While there is the statutory machinery of the Environmental Appeal Board to provide an avenue for appeal of a permit decision, the widespread conclusion of the public is that this is a monumentally unfair and unnecessary imposition. Forcing local residents to hold fund-raisers to assemble legal funding is not a suitable way to treat local residents in their efforts to protect a water supply from a government decision by the very ministry that is charged with environmental protection.
  11. MOE continues to intimate that all would be solved if only the CVRD were to establish a zoning by-law to control soil dumping in the region. As any by-law must be approved by the Ministry before it comes into force, and because it refused to do so with an existing by-law in Area B, the suggestion that the CVRD can effect controls is seen as a red herring used to confuse the public about who is actually responsible. If a by-law cannot prohibit dumping of contaminated soils in community watersheds, then it will be useless and just likely to shift accountability and liability for monitoring and for bad results to the CVRD rather than the province.
  12. This is now a matter of trust and credibility. The Shawnigan public does not trust the SIA engineering consultants or the Ministry to ensure safety of the basin water supply. Piling on stringent conditions to sweeten the permit is not effective, because there is so much evidence of mistakes, non-compliant activity by soil haulers, failures to comply with the EMA over many years, insincere, tardy or absent monitoring, non-reply to Ministry letters and continuing non-compliances stretching to thirteen years, and actual and recent contamination now measured on local sites. Absolutely no-one except the proponent and the Ministry believes that the SIA operation will be risk-free in perpetuity. Shawnigan residents believe that adding risk to the community water supply is simply irresponsible.