

Mark Martin

From: Mark Martin [mkmpp@me.com]
Sent: Thursday, November 20, 2014 5:08 PM
To: Mark Martin
Subject: Good Evening Planning Commissioners,

Good Evening Planning Commissioners,
While I don't pretend to know specifically about the roughly 25 SMOs or 15 newly proposed SMOs in Clark County, or the 15-16 active rock and gravel mines in this second most densely populated county of Washington, but I have read 1000s of pages on the Livingston Mountain quarries including the Conditional Use Permits and 100s of other documents. I will continue to dig more because I am certain that these mines are negatively impacting life in Clark County. I also know that this commission and the county commissioners have thoughtfully and unanimously voted against further expansion of the surface mine overlay in my neighborhood of Livingston Mountain. For that we are all grateful. Going forward, we hope those votes are sustained and validated in future resolutions on policy and code that we are discussing tonight.

Tonight I would like to address what I characterize as Code Enforcement nullification, that is the failure of Clark County staff to enforce the Conditions of Use Permits for the two mines operating on Livingston Mountain. As has been noted and stated for many months, the county has been in possession of scientific evidence showing that the maximum noise decibel levels have been breached on dozens and dozens of occasions at Livingston Mountain's two quarries. The maximum noise level allowed by the Hearing Examiner when both mines are operating is 46 decibels. This level was established by acoustical experts and approved in the Final Order of 2009 for the Conditional Use Permit of the Livingston Quarry. While I have been provided only partial information for my requests of public information, even the limited information I have been provided shows major violations of Conditional Use permits, yet no action has been taken by the county to remedy these violations. Unfortunately, the county has failed to keep the appropriate records required by the conditions of use agreements, including the noise data, the blasting data, the operating dates of Livingston Quarry, and the weather at the Livingston Quarry which the county oversees. Because of the absence of complete records, I will limit my discussion to the incomplete records provided by Storedahl to the County and forwarded to me by Mr. Jan Bazala. To reiterate, this is in spite of the fact that the county is required to keep these records and does not do so. During the period of June 1-August 5, 2014, and of the data provided to me, which was generally on an hourly basis, there were violations of the maximum permissible noise levels on 15 separate occasions during mining operating hours. These violations of the maximum decibel levels took place on June 15 at 1 p.m., June 18 at 5 and 6 p.m, June 26 at 9 and 10 a.m., as well as 4 p.m. on the same date. Moving into July, 2014, there are violations occurring on July 2 at 10:57 a.m., July 22 at 7, 8, and 9 a.m., then again on July 23 at 12, 1, 2, 3 p.m. Finally, from one last record provided for August, there was also a decibel violation noted at 4:07 p.m on August 5, 2014. We should keep in mind that the maximum permissible noise decibel levels for one operating mine is 33 decibels. Since virtually 100% of the time the noise levels from the recording stations exceed 33 decibels, it must be inferred that both mines are operating 100% of the time since at virtually all times decibel levels exceeded 33 decibels. The county is also supposed to keep the data regarding operation of its mine, the current weather conditions as well as the decibel data collection, but it doesn't do so. When I confronted Mr. Jan Bazala, the land use planner for Clark County for The Livingston mines with this evidence, he made two very telling remarks: "it might have been the wind that day and "I don't have time to review all the data." I reminded Mr. Bazala and the commissioners in my recent letter to them that it isn't up to Mr. Bazala to interpret scientific evidence in a way beneficial to J.L. Storedahl. Obviously, these violations should be brought to the attention of the Code Enforcement Manager of Clark County who apparently is not kept apprised of industry violations of the Clark County Code 32.04. If Title 32.04 the Clark County Enforcement Code was followed, the minimum fines for these breaches would amount to \$7500. Of course, repeated violations could nearly double these amounts, yet no fines have ever been imposed. In fact, it was a surprise to me that in all our recent discussions with Clark County staff, in writing, by

telephone, and in person, I have never met or had more than a brief telephone introduction to Paul Scarpele, the Code Enforcement Manager for Clark County. I think this is an indication of the severity of the problem we are here to address tonight: monitoring and enforcement of the mining industry in Clark County.

This is why I characterize this issue as Code Enforcement Nullification to the detriment of the Clark County citizenry. When I asked about what happened with the five violations of the Conditional Use permit review for Livingston Mountain quarry back in 2008, two members of county staff simply did not respond to my queries. Mr. Dentler, the attorney for Storedahl and I agree on this one issue, there is apparently no data collection on the mines of Clark County and the various conditional use permits, let alone code violations or other conditions of use violations. There is instead a black hole which I call code enforcement nullification.

As the citizens of our neighborhood see 100s of trucks daily ramble up and down 53rd and Bradford headed towards the two mines, we are appalled by the two CUPs that allow up to 470 trucks a day back and forth on a single road. That is roughly, one 18 wheel double container truck every 90 seconds during the two mines operating hours. We wonder whether the 470 maximum truck limit contained in the two conditional use permits is actually being observed since there is apparently no monitoring of those conditional uses. While the mines have two different operating hours, one earlier than the other, Storedahl assumes the earlier operating hours for all of its operations in both mines. Again no enforcement means nothing is done about this violation of the operating hours. We do know that the trucks are frequently overloaded and never covered, causing damage to our cars especially on windy days. We also know that the trucks coming from the Livingston Mountain quarry are suppose to be lined, they are not. After frequent complaints of car damage occurring by overloaded trucks, the Washington State Patrol was recently coaxed into doing an enforcement action and found that four out of five trucks stopped were overloaded or 80% of the trucks inspected. Sadly, only warnings were given and no citations issued. Storedahl trucks were quickly redirected away from their usual northwesterly route, so that more trucks were not stopped and checked in this enforcement action. To date, we know of no similar enforcement action taken by Clark County Sheriff's deputies on county roads.

One final land use and enforcement issue I'd like to bring up related to the requirement of condition of approval B-1 of the Conditional Use Permit which requires infiltration testing be conducted in the infiltration basin areas of the Livingston Quarry prior to commencement of operations. The purpose was to verify that infiltration rates meet or exceed the design rate of 60 inches per hour. Because of previous quarry operations standard infiltration testing was not possible. The Stormwater Management Manual for Western Washington recommended the Pilot Infiltration test or PIT method, however this method was "not feasible at this site," due to a lack of available water and "excessive infiltration rates." So the Alternate Single-Ring Falling Head Infiltration Test Procedure was proposed. This test has three steps to determine the rate of infiltration of 60 inches per hours or better, but instead of a 6-inch diameter 15-inch long, rigid pipe imbedded into the base of the pond along with a 4-hour pre-soak period, Maul Foster used a "12-inch PVC pipe because the shot-rock composition prevented adequate embedment of a 6-inch diameter pipe, thus a 12-inch pipe was used instead." The presoak began at 3:32 p.m; the water 3200 gallon water truck emptied in 20 minutes due to the lack of available water." According to Maul Foster, "in essence 6539 inches of water was infiltrated over a span of 21 minutes, which," they claim, equates to a tested rate greater than 18,000 inches per hour." They go on to say that, based on the excessive infiltration observed, coupled with the known site geology, it is reasonable to conclude that the infiltration rate at the pond location far exceeds the required 60 inches per hours." The County at MFA's behest, on Storedahl's behalf, determined that Condition B-1 was now met. In short, the best practices test could not be used, the second best test was not used and instead some Mickey-Mouse made up test was used to verify that proper Stormwater testing was accomplished. Isn't this exactly kind of enforcement that led to a million of dollar suit against the County in the last two years.

The sad reality in Clark county is that Code Enforcement by county authorities does not exist at least for the mining interests. Instead we have a system of mining self-regulation which as any student of history will tell you only works where honorable businesses of integrity exist. Storedahl does not rank as an honorable business of integrity by any stretch of the imagination and our county continues to practice Code

enforcement nullification. You know when the rules and regulations are not applied equally to all and when the enforcement authority refuses to take statutory action against violations, one teaches the members of society there really is no justice. People are then motivated to bypass the failings of this system and take the next steps to redress their grievances.

We hope that the Planning Commission tonight will help citizens take the first step to real Code Enforcement by adopting the newly proposed standards including standards that apply to existing mines in the 2nd highest population density county in Washington state. Please help protect our rural residential neighborhood from the abusive excesses of Companies like J.L. Storedahl. Thank you for your time.

Sent from my iPad=

A handwritten signature in black ink, appearing to be 'Wh H A', written in a cursive style.