

Deni Silberstein
Grass Valley, CA 95945

Date: Jan 19, 2009
To: Mr. Tom Last,
Planning Director, City of Grass Valley
125 E Main St.
Grass Valley, CA. 95945
Re: Idaho-Maryland Mine Project DEIR
From: Deni Silberstein

Dear Mr. Last,

Here are my comments to the draft EIR, Idaho-Maryland Mine.

Thank you,
Deni Silberstein

ch4 – environmental: stormwater

Chapter 4 "Environmental Analysis" Questions/Concerns (DS)

Section 4.3-12

1) In order to design an appropriate stormwater management program (SWMP) several variables must be calculated, including the probable amount of runoff from storm events, as well as the amount of impermeable surface over which the stormwater would flow.

- a. What is the amount of impermeable surface constructed as a result of development on the IMMC sites, including graveled areas over which equipment will cause soil compaction resulting in an impermeable surface?
- b. Where in the DEIR are these amounts reflected in the calculations used to determine the size and type of the SWMP?

Section 4.3-36

1) The IMMC Project must apply for approval from the Regional Water Quality Control Board (RWQCB) for work within jurisdictional waters. Required in the documentation presented to the RWQCB is a description and schematic drawing

of all treatment processes, including a description of any Best Management Practices for stormwater management (BMPs).

- a. When will the IMMC apply for this RWQCB approval?
- b. Why is this approval documentation not included in the DEIR?
- c. Why are the descriptions of the treatment process and BMPs not included in this DEIR?
- d. When will the public have an opportunity to comment on these items?

Section 4.3-37

1) The implementation of the reclamation plan could result in indirect impacts to jurisdictional waters on and in the vicinity of the Idaho-Maryland and New Brunswick sites through an increase in sedimentation.

- a. What specific BMPs will be incorporated to prevent this increase in sedimentation?
- b. What is the specific SWMP for the reclamation plan?
- c. Why is the final reclamation plan project design not included in the DEIR?
- d. When will the public have an opportunity to comment on the final reclamation plan project design prior to the mine's approval?
- e. Who will monitor the effectiveness of the BMPs during reclamation?
- f. What if the BMPs are ineffective
 - i. Who will redesign them during reclamation?
 - ii. Who will install them during reclamation?

2) During construction the performance and adequacy of the **BMPs** for temporary erosion control shall be determined visually by site construction management and verified by the City as appropriate.

- a. What does "as appropriate" mean?
- b. Who determines what is appropriate?

3) Native vegetation shall be established on bare soils within the development site as soon as possible after disturbance. Vegetative application shall be completed by September 15th to allow for plant establishment.

- a. Who will choose this native vegetation?
- b. Who will monitor its planting and establishment?
- c. What will be the consequence if the vegetation is not established within the noted timeframe or within a reasonable range of variation from it?

Section 4.3-41

1) The proposed project could have a potentially significant impact on aquatic wildlife from erosion and sedimentation, as well as flooding. Mitigation Measure 4.7-4 proposes an alternate discharge location that would reduce impacts to aquatic wildlife from the processes described here through reducing sedimentation and erosion rates. Additionally, the discharge point would be moved to a wider portion of channel further downstream that contains heavily cobbled channel bed with a contributing watershed area larger than that of the proposed discharge location. Mitigation 4.7-4 would reduce potential impacts to less than significant.

- a. How was it determined that the mitigation output site located 1000 to 2000 ft. downstream would have so much less an impact on instream sedimentation that it would become a "less than significant" impact on the aquatic life in South Fork Wolf Creek?
 - i. What specific calculations were used to arrive at the judgment of "less than significant" impact on the aquatic life?
 - ii. Where are the quantifiably "less than significant" sedimentation calculations located in the document?
 - iii. If no quantifiable calculations are available, how can it be stated with certainty that the impacts after mitigation would be "less than significant" on the aquatic life?
 - iv. If it cannot be stated with certainty, then how can a "less than significant" determination be legitimately made?
 - v. In Table 4.7-2, why are there N/A symbols in the "Alternate Mitigation Discharge" rows?

2) Construction, and potential removal (i.e., during reclamation), of in-stream diffusers for discharge to Wolf Creek and South Fork Wolf Creek may impact aquatic wildlife and habitat within the immediate vicinity of the construction activity and downstream. Construction activities would be performed in accordance with an established hazardous materials handling, spill prevention, and emergency response plan to address the incidental release of hazardous materials in Wolf Creek and/or South Fork Wolf Creek. Construction activities would also be performed in accordance with a storm water protection/erosion control plan (i.e. SWPPP).

- a. Where in the DEIR is the "established hazardous materials handling, spill prevention, and emergency response plan" that the recommended mitigation measure 4.3-2c says will aid in reducing the potentially significant impact on aquatic life of construction and removal of instream diffusers?

- b. Where in the DEIR is the "storm water protection/erosion control plan" that mitigation measure 4.3-2c says will guide the construction and reclamation activities in order to reduce the potentially significant impact on aquatic life of construction and removal of instream diffusers?

Section 4.7-17

1) Construction activities disturbing one acre or more of land are subject to the permitting requirements of the NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit). The applicant must submit a Notice of Intent to the RWQCB to be covered by the General Construction Permit prior to the beginning of construction. The General Construction Permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP must be prepared before construction begins. Persons whose discharges are composed entirely of industrial storm water runoff may be eligible to be regulated under a General Industrial Storm Water Permit issued by the SWRCB rather than an individual NPDES permit issued by the RWQCB. The General Industrial Storm Water Permit regulates storm water runoff from eligible industrial activities including mining and oil and gas facilities.

- a. Why is the SWPPP not included in this DEIR since its adequacy has a direct impact on the environment?
- b. When will the SWPPP document be available for public input prior to construction?
- c. If it will not be available for public input prior to construction, why will it not be?

Section 4.7-18

1) In late 2003, the City of Grass Valley developed a Stormwater Management Program (SWMP) to comply with a statewide general permit for discharging storm water to Waters of the State. The SWMP addresses a wide variety of activities conducted in urbanized areas of Grass Valley that are sources of pollutants in storm water.

- a. There is some public concern about the adequacy of the City of Grass Valley's SWMP. Why is this City document not contained within the DEIR, since it is referenced as an aspect of the IMMC Project compliance with stormwater pollutant management?
- b. Where in the DEIR can the specifics of stormwater pollutant management – in the form of a SWMP – be located.
- c. If the SWMP is not in the DEIR, why is it not included since its adequacy, or inadequacy, will have a direct impact on the environment?

Section 4.7-19

1) Nevada County General Plan Policy 11.6A: New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvement or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors, and local roads consistent with adopted urban street designs; and (b) oil, grease, and silt traps for subdivisions creating five or more parcels and commercial and industrial development of one acre or greater in size. Maintenance of such facilities shall be assured through a legally-enforceable mechanism.

- a. Where will the oil, grease and silt traps be located on the mine property?
- b. What is the legally-enforceable mechanism that will ensure maintenance of these facilities?
- c. Who will monitor the enforcement of these facilities?
- d. How frequently will they be monitored?
- e. What are the consequences if the facilities are not adequately maintained?

Section 4.7-21

1) Substantially altering the existing drainage pattern of a site or area through the alteration of the course of a stream or river or, by other means, substantially increases the rate or amount of surface runoff in a manner that would result in flooding on- or off-site;

- a. The more recent research on stormwater management recommends using non-engineered techniques for capturing stormwater onsite by allowing it to percolate into the soil, becoming naturally cleansed as it flows through the soil, then enabling it to slowly make its way underground to the creek, thereby recharging groundwater, reducing flood potential and increasing the water content of on-site foilage.
 - i. Are non-engineered techniques being incorporated at the IMMC site?
 - ii. Where on site are they located?
 - iii. Where is are their design specifications located in the DEIR?
 - iv. If none of these non-engineered techniques are being employed, why are they not?

2) Regarding stormwater runoff, the DEIR defers to the 2007 MEA Initial Study. The MEA declares that the IMMC site improvements would actually improve drainage and reduce future erosion, sedimentation, and localized flooding, and

therefore, found these impacts to be less than significant. The MEA also claims that the IMMC development would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff in any way that would have a significant impact.

- a. What are the existing or planned stormwater drainage systems?
- b. Why is the stormwater going to be "drained" away instead of the stormwater being captured and filtered in the soil, as is recommended by the more current stormwater BMPs?
- c. The best erosion and sediment control is a stable, natural landscape. The berm to which the initial study refers is not a natural landscape feature, although it has been on the site long enough to have stabilized, creating several wetland and riparian areas along its outflow, all of which enhance stormwater infiltration into the soil for slow, cleansing water movement toward the creek.
 1. Is the MEA claim that the IMMC "site improvements would actually improve drainage and reduce future erosion, sedimentation, and localized flooding," in relation to this artificial berm situation that is the "current" stormwater system?
 2. If so, what is their rationale for claiming that the stormwater is better removed from the site through existing or planned stormwater "drainage systems", rather than by the current – and BMP recommended – process of slowly capturing the stormwater after it leaves the berm culvert, allowing the stormwater to percolate into the soil, then enabling it to slowly meander underground into the creek: instead of "draining" it into the creek without allowing the soil to naturally filter it?
 3. What is their rationale for this "would actually improve drainage" statement? How would their drainage systems improve the drainage over what is currently there? This is not explained in either the Initial Study or the DEIR.

Section 4.7-23

Impact 4.7-1: Contaminants generated during project construction could affect water quality and violate water quality standards if released to Wolf Creek or South Fork Wolf Creek. The applicant would be required to obtain an NPDES General Construction Permit and implement the Best Management Practices (BMPs) associated with that permit. Under the NPDES program, the applicant would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP)

to address potential water quality issues. Considering the existing regulatory mechanisms, this impact is less than significant.

- a. Since the existing regulatory mechanisms have not been delineated, what is the criteria used to determine that the contamination of Wolf Creek and South Fork Wolf Creek is less than significant?
- b. What are the procedures that the IMMC will use to reduce sedimentation?
- c. What are the BMPs that the IMMC will use to
 1. control runoff
 2. reduce sedimentation
 3. keep sedimentation from entering the surface water
 4. keep construction debris from entering surface water
 5. keep petroleum-based fuels from entering surface water
- d. It is inadequate to simply state that a SWPPP needs to be prepared.
 1. Why did the IMMC not prepare one
 2. Why will they not let the public view it as a part of the DEIR
- e. CEQA does not allow that the statement, " Considering the existing regulatory mechanisms, which require monitoring and reporting of water quality protection measures to manage storm water discharge and water quality during construction..." is reason enough to deem that "... this impact is less than significant." Where is the documented evidence to support the statement that the contamination of Wolf Creek and South Fork Wolf Creek is considered less than significant?

Section 4.7-24

The applicant would be required to obtain an NPDES General Construction Permit and implement the Best Management Practices (BMPs) associated with that permit. Under the NPDES program, the applicant would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) to address potential water quality issues. Considering the existing regulatory mechanisms, which require monitoring and reporting of water quality protection measures to manage storm water discharge and water quality during construction, this impact is less than significant.

- a. What are the specifics of the monitoring and reporting program for the BMPs
 1. How will the BMPs be shown to be adequately installed and maintained?
 2. When will the report be made to the RWQCB?
 3. Where on the property will silt fences be?
 4. Where will vegetative swales be?

5. Where will source control be?
 6. Where will protection of exposed soils be?
 7. Where on the property are the drains and ditches which flow to the storm water detention pond located?
- b. Which areas will be revegetated?
- c. What are the existing regulatory mechanisms?
1. Which aspects of the existing mechanisms will be used at the IMMC site?
 2. Where will they be located on the site?
 3. Why will they be used?
 4. How will they manage storm water discharge?
 5. How will they manage water quality during construction?
 6. Who will monitor the management of these interventions?
 7. What will be the consequences of inadequate stormwater management?
 8. Who will enforce negligent stormwater management activities?

Section 4.7-26

Through the water treatment process, a solid waste would be generated, typically referred to as sludge.

- a. Where will the sludge be temporarily stored?
 1. How will it be protected from stormwater?
 2. How will the stormwater that interacts with the sludge be cleansed?
 3. How will the sludge be protected from the effects of a storm event to keep it from seeping into the ground or washing over a dam?
- b. Where will the sludge be permanently stored?
 1. How will it be protected from stormwater?
 2. How will the stormwater that interacts with the sludge be cleansed?
 3. How will the sludge be protected from the effects of a storm event to keep it from seeping into the ground or washing over a dam?
- c. What will be the by-products of the water treated for cyanide removal?
 1. In what quantity will they exist?
 2. What are their toxicity ratings?
 3. How will they be removed?
 4. How will they affect the environment?
 5. What is their potential to pollute groundwater?
 6. What is their potential to affect people?

Section 4.7-28

The parameters to be included in the NPDES Monitoring Plan include:

- Weekly monitoring of flow rate
- Monthly collection of samples for analyses of metals
- Quarterly monitoring of volatile organic compounds, etc.
- Semi-annual monitoring for dioxins

Various sample locations from Wolf Creek and South Fork Wolf Creek would be identified for the long-term monitoring plan that would be required for the duration that the mine actively discharges. The water treatment systems are planned to operate during the lifespan of the project. The proposed project closure plan states that IMMC (or operator) would retain operation of dewatering at the New Brunswick site, including the water treatment and diffuser system, as required by the NPDES permit requirements.

- a. If samples are only taken monthly, how will it be determined that these pollutants are not released into a creek between monthly sampling?
 1. Who determined that monthly sampling would be adequate
 2. What criteria was used to determine that monthly sampling is adequate?
 3. Where in the DEIR are the calculations to determine that monthly sampling is adequate?
 4. What is the appropriate quantity for each of the samples?
 5. What happens if the sampling numbers are not compliant with appropriate quantities?
- b. . If samples are only taken quarterly, how will it be determined that these pollutants are not released into a creek between quarterly sampling?
 1. Who determined that quarterly sampling would be adequate
 2. What criteria was used to determine that quarterly sampling is adequate?
 3. Where in the DEIR are the calculations to determine that quarterly sampling is adequate?
 4. What is the appropriate quantity for each of the samples?
 5. What happens if the sampling numbers are not compliant with appropriate quantities?
- c. . If samples are only taken semi-annually, how will it be determined that these pollutants are not released into a creek between semi-annual sampling?
 1. Who determined that semi-annual sampling would be adequate
 2. What criteria was used to determine that semi-annual sampling is adequate?
 3. Where in the DEIR are the calculations to determine that semi-annual sampling is adequate?
 4. What is the appropriate quantity for each of the samples?
 5. What happens if the sampling numbers are not compliant with appropriate quantities?
- d. Who will be responsible for the continued monthly, quarterly and semi-annual monitoring if the IMMC goes bankrupt or has to close down?

Summary

Even though some of the RWQCB permits are not required until after project approval, prior to construction, as noted on DEIR pages 4.7-17 and 4.7-23/24, due to the magnitude of the project I am making a formal request for these permits to be applied for and approved prior to project approval because mitigation cannot be assured without seeing the content of these permit applications/mitigation plans.

In addition, the Project Description is inadequate without an Erosion and Sediment Control Plan with the proposed BMPs and a SWMP. These are integral physical components of the project and we need to be able to evaluate them now.