

No vested right for Blue Lead Mine

J. Pelton, Grass Valley Union, 6-30-10

Letter to the editor

On May 27, the Nevada County Planning Commission voted unanimously to reject an application from Blue Lead Mine LLC for a “vested” right to mine. (The meeting was streamed live and will be shown again on NCTV.)

With approval of a vested right, the mine owner would not be required to obtain a county mining permit. A vested right to mine is applicable only to mines that were in active, continuous, legal operation in 1954 when the County began requiring permits and that have continued to operate legally. Daydreaming about mining some day doesn't count.

Staff recommendation initially ignored

Previously, during a poorly noticed and poorly attended hearing on March 25, the commissioners had signaled their intention to approve the application, based primarily on a presentation by Blue Lead's attorney.

The presentation glossed over the complete lack of verifiable evidence to support initial vesting in 1954, as well as the long periods of no mining activity from 1954 to the present.

The commissioners' decision on March 25 was all the more surprising in light of the thorough research by county planning staff, and staff's recommendation against vesting.

Public hearing re-opened

Two more hearings were conducted in April and May. Many members of the public, including a local historian with firsthand knowledge of the area, spoke in opposition.

The unanimous vote to reject Blue Lead's application represents the triumph of truth over flim-flam. The commissioners listened carefully, again, to the lengthy presentation by Blue Lead's attorney.

He repeatedly asserted a vested right without actual evidence, while trying to persuade the commissioners that speculation about the history of mining in the vicinity of the Blue Lead property, some old photos and vague declarations were sufficient “proof.”

Commissioners also heard compelling presentations and public comments and ultimately decided that Blue Lead had not provided credible evidence for its vesting claim.

Integrity of the process

The state attorney general has cautioned that the vested rights exemption should be strictly construed and that substantial doubts should be resolved against granting exemptions.

If Nevada County enforcement of mining regulations is lacking, the state Office of Mine Reclamation can, and will, step in. The proper way to protect the county's status as lead agency, and to support legitimate vested

rights, is to protect the integrity of the process by requiring actual, verifiable, proof of vesting. It is expected that, henceforth, the planning commission will hold future applicants for vested rights to a much higher standard of evidence than was provided by Blue Lead.

Blue Lead must obtain county mining permit

Although the application for a vested right to mine was not approved, the owner of Blue Lead LLC can still mine his property when he obtains the appropriate county permits.

Violations

Nevada County, the Bureau of Land Management, the Office of Mine Reclamation, the Regional Water Quality Control Board and the Forest Service, all have case files on Tucker White, the owner of the Blue Lead Mine, for SMARA-related violations and trespass.

It has been reported that Mr. White also has a record of mining violations, including water pollution, in Plumas County.

Report suspected illegal mining

Illegal mines are those mines that are not in compliance with the Surface Mining and Reclamation Act of 1975 (SMARA).

You can notify the Department of Conservation's Office of Mine Reclamation (OMR) by telephone (916) 323-9198 or by e-mail omrcal@conservation.ca.gov, with a description of the type of mining activities observed, where the mining operation is located, when you observed it and any other pertinent information.