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The Right Hon Robert Jenrick MP
Secretary of State
Ministry of Housing, Communities and Local Government
Planning Casework Unit, 5 St Philips Place, Colmore Row
Birmingham, B3 2PW

October 16, 2020

Dear Mr Jenrick,

Re: Call-in Request

We are writing to request that you, as Secretary of State, “call-in” the following planning application for your own consideration.

Local Planning Authority (LPA): Cumbria County Council

Location: Former Marchon Site, Pow Beck Valley and area from Marchon St to St Bees Coast, West Cumbria

Application Ref: 4/17/9007

Applicant: West Cumbria Mining (WCM)

1. Application History

Ciara Shannon of EdenWorks and Duncan Pollard & Associates jointly submitted an objection framed as a ‘Business Case Against the WCM’ on September 29, 2020 to Cumbria Council. This was submitted following the recommendations that the Development Control and Regulation Committee approve the planning application on October 2 for the £160 million Woodhouse Colliery, West Cumbria. This call-in request follows the October 2 approval of application 4/17/9007.

2. Summary of Our Call-in

- While we are aware that the financial and economic providence of this planning proposal are immaterial to considering the merits of a planning application - nevertheless - the economic and social benefits of this project, such as jobs were central¹ to approval by Cumbria Council’s Development Control and Regulation Committee. We believe further scrutiny must be given to this.
- We have questions about the business model of WCM, and this includes questions about the governance and transparency of the owner and their projected profit levels and stated taxes that WCM will contribute to the UK. We therefore believe it is important that a ‘call-in’, by you, the Secretary of State does go ahead and that an enquiry also considers the governance of the owners and a closer look at the financials of the project and its projected profits. This must be done in consideration of the future of the metallurgical coal market, carbon pricing and the timelines of decarbonising steel technologies.
- We also consider it important that you consider that approval of the mine creates reputational issues and leadership of the UK Government as it hosts the UN COP26 next year. The deep coal mine reverses the progress being made towards Net Zero by 2050 and a switch to clean energy sources. It also undermines the government’s recent pronouncements on renewable energy and expected policy on hydrogen.
- In this letter, we outline multiple environmental, social and governance (ESG) risks to the project which could mean that WCM will soon become a ‘stranded asset’ - and this will undoubtedly require a rescue package by the UK Government to preserve the jobs and thus WCM will become a burden on the taxpayer.

A Low Carbon Future Now for Copeland

Instead, we consider that a more sensible approach for job creation by Copeland and Cumbria Council would be to build upon offshore wind, tidal, hydro and peat restorations and tree planting opportunities and build a vision for this² in the area and be aligned to the mission of Britain’s Energy Coast which is “To lead the transition of West Cumbria into an economy that will flourish in a low carbon future.”³ Add to this, green jobs and low carbon business

¹ Source: <https://www.telegraph.co.uk/news/2020/10/02/uks-first-deep-coal-mine-30-years-wins-planning-approval-cumbria/>

²Source: <https://eden-works.org/2020/07/02/for-peats-sake-lets-get-on-with-it/>

³ Source: <https://ec.europa.eu/growth/tools-databases/regional-innovation-monitor/organisation/britain%E2%80%99s-energy-coast>

opportunities need to be a central priority of Cumbria's Local Enterprise Partnership (LEP) which should provide a strategic lead on contributing to the county's greener economic growth and job potential.

3. Key Areas of Objection – The Business Case Against West Cumbria Mining (WCM)

Our 'Business Case Against WCM' is framed around assessing the financial & business risks of the WCM project and the governance risks of project owners EMR Capital, in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) and Environment, Social and Governance (ESG) risks of the project. The TCFD reporting framework, which the UK Government is supportive of, provides an important lens to understand the risks of climate change to companies and investors.⁴

We framed our objection in this way as we consider that the material financial and ESG risks of the project have not been adequately explored. Without adequate attention to the financial, environmental, governance and regulatory risks - the £160 million investment could soon become a 'stranded asset', with consequences for Copeland, Cumbria Council and the UK Government. This could create a political crisis for the Treasury if asked to bail out the mine. Likely asked by the very same local MPs and Councillors who are keen today for those WCM 510 jobs - but had not considered the below risks.

3. Understanding the Market and ESG Risks

3.1 Market and Transition Risks

Companies are already responding progressively to the Climate Change Act (2008) to reach Net Zero by 2050 and the need for a 50% reduction by 2030. But before then - in the next three years (when the mine is expected to be under construction) - there will likely be a dramatic shift in the steel market especially as oil & gas companies and investors start to invest in hydrogen and other decarbonising technologies in the steel sector. In addition, steel production will be subject to increased carbon pricing, including from the UK ETS and the EU ETS, carbon taxes or climate-focused coal tax which will have a direct impact on WCM's earnings, profit and revenues from tax.

This is important to consider as taxes and jobs were key benefits proposed by WCM and were central to consideration by the Council in approving the application. These risks are ignored in the WCM proposal which predicts a stable market demand and price for metallurgical coal until 2049 and their profit model does not consider an increase in carbon prices impacting their profitability and the scenario of the project becoming a stranded asset.

Below are various market risks to consider -

- **Robustness of Market:** We question the long-term strength of the UK and European steel industry and its need for metallurgical coal up to 2049 (the end date of this project). We will not speculate on future steel capacity levels, though we note a current global and European market overcapacity in steel production.⁵ Instability in the steel sector leads to insecure jobs as wages are minimised and operations mechanised to reduce costs.
- **Decarbonisation Technologies and Timelines:** Second, we question WCM's business model that is based around the fact metallurgical coal will be in demand until 2049. Many steel companies are already looking beyond using metallurgical coal in their blast furnaces and they are considering alternative fuels such as hydrogen, bio-energy, carbon capture usage and storage (BECCS), and electricity. According to BNP Paribas' paper on green hydrogen - costs for renewable hydrogen are coming down quickly. Electrolysers are expected to be able to compete with fossil-based hydrogen in 2030. These elements will be key drivers of the progressive development of hydrogen across the EU economy."⁶ The speed and scale to decarbonise the steel sector is expected by 2030 or before. This is nineteen or so years before WCM's projections that consider 2049 as the date for decarbonisation of the steel sector and thus the end date of their project.
- **Carbon Prices:** Carbon prices will increase both in the UK and in the EU. As WCM aims to export 87% of its metallurgical coal to the EU, it is also important to also consider the EU carbon price and policy signals, in addition to the UK's. The EU's proposal for a Carbon-Border-Adjustment Mechanism (expected mid next year), could also

⁴ TCFD is supported by over 1400 financial institutions managing US\$12.6 trillion and it is a framework to use to examine the material financial impacts of climate-related risks and opportunities of a project

⁵ Source: <https://www.argusmedia.com/en/news/2145506-oecd-warns-against-steel-overcapacity>

⁶ Source: <https://docfinder.bnpparibas-am.com/api/files/FB39FAB1-A279-41CC-9CDD-4D22827359B0>

bring WCM's UK metallurgical coal into the scope of the EU-ETS⁷, and there will be the UK ETS and associated costs. Voluntary market carbon prices and mandatory taxes add financial costs which could dramatically change WCM's economics of coal extraction and customer demand.

- **Investor Pressure:** There is already demand by asset owners and asset managers that the steel sector and its supply chain be decarbonised. ArcelorMittal's (the world's largest steel company) recently announced its Net Zero target that came after extensive engagement via Climate Action 100+⁸. ArcelorMittal plan to go down the H-DRI route, as well as use bio-energy carbon capture usage and storage (BECCS) - as they see this as a way of providing carbon neutral steel. They think that smart carbon solutions such as CC(U)S are likely to happen sooner, despite the high costs.⁹

3.2. Environmental Risks

- WCM will negatively impact the UK's plans to reach net-zero carbon emissions by 2050, as set out in the UK Climate Change Act (2008) and its associated emissions will lead to increased climate impacts.
- It is expected that WCM's metallurgical coal will be responsible for approx. 9 million tonnes of CO₂e per year. This is more double the net annual emissions from the whole of Cumbria, and equal to approx. 2% of the UK GHG emissions¹⁰. This proportion will increase in the future as total UK GHG emissions reduce, whilst WCM has little opportunity to reduce its emissions.
- The societal impact of these GHG emissions, comprise damage to health and the environment is estimated to be £794 million annually, far in excess of the benefits brought in terms of taxes and wages (see below).
- We also note residents are concerned about decontaminated land and we question what consideration has been given to the proposed housing development which would see 600 homes built north on the former Marchon site.

3.3 Social Risks: Taxes

- WCM have highlighted two major benefits of the mine, being the contribution that WCM will make to taxes and the creation of jobs.
- WCM originally forecast that they would pay £500million in taxes in the first ten years. This has been recently downgraded to £300Mn. The Lex Column of the FT has recently questioned the profitability, and our calculations suggest that taxes over the first ten years may be nearer £100Mn, or £14Mn annually. Tax is clearly an important contributor to Government and helps social cohesion.
- We note that whilst West Cumbria Mining is a company registered in England, there is a complicated structure with a series of legal entities in different jurisdictions. The ultimate owner is EMR Capital Resources Fund LP which is registered in Cayman Islands. One common rationale for registration in the Cayman Island is to avoid taxes, and this raises serious questions about WCM's claims on taxation and could see our tax calculations even be overestimates. This creates an additional uncertainty around taxes and creates a significant risk for the UK Government and UK Treasury.

3.4 Social Risks - Jobs

- WCM's proposal is to create 510 jobs once the mine is open in addition to the multiplier of jobs down the supply chain. WCM has not stated a median salary which would allow us to calculate the quality of these jobs. They have also stated that they will pay the real living wage of £9.30. Whilst this is indeed above the national living wage of £8.72, it is, as the Living Wage Foundation itself admits, calculated in terms of what people need 'to get by'. Levels below a decency threshold leave a liability for local and national Government to provide social security payments. We estimate that a significant proportion of jobs offered by WCM would not offer a decent level of income for households of people employed at the mine. It is essential that jobs created by WCM are not subsidised by the UK taxpayer. This requires specific scrutiny given the risks highlighted above - strategies to survive market and regulatory risks will be focused on reducing costs. This will impact salaries and job security, which in turn will reduce profits, impacting business rates and tax payments.
- Not unclear if the 510 jobs will be for locals or for those skilled in metallurgy outside of Copeland.
- While the WCM does provide information on a remediation bond (with no specified amount) which is a specific condition of the Section 106 Agreement - a legal agreement between Cumbria County Council, WCM and other

⁷ Source: <https://docfinder.bnpparibas-am.com/api/files/FB39FAB1-A279-41CC-9CDD-4D22827359B0>

⁸ ClimateAction 100+ represents 500 investors with US\$47 trillion in assets

⁹ Source: <https://corporate.arcelormittal.com/media/news-articles/arcelormittal-europe-to-produce-green-steel-starting-in-2020>

¹⁰ Source: UK territorial emissions. UK Government, June 2020

landowners to - it is not clear if the remediation bond also protects the workers, if the mine were to close. It is also not clear on the value of the remediation bond compared to the costs of the remediation.

3.5 Regulatory Risks

- While there is currently no phase-out date for the use of coal in steel manufacturing, the UK has committed to switch to lower carbon steel production via its clean steel fund, whilst burning coal at UK power stations will be phased out from 2025.
- The Committee on Climate Change (CCC) will publish in December 2020, its recommendation for the Sixth Carbon Budget for the period 2033-2037 - the first to take net-zero target into account; it is expected it will impact the steel sector.
- The UK government has currently committed support to hydrogen development of £350 million, yet this could change in January 2021 when the Government is planning to release its hydrogen strategy. A move to hydrogen will place downward pressure on demand and prices for metallurgical coal.

3.6 WCM Governance Risks

- West Cumbria Mining (WCM) is registered in England, owned by West Cumbria Mining (Holdings) Ltd - and is owned 82.1 % by EMR Capital Investment (No 3B) Pte Ltd, a Singapore registered company and 17.9% owned by 61 individuals, pension funds and investment companies. The ultimate owner/parent company of WCM is EMR Capital Resources Fund LP which is a private equity company registered in Cayman Islands. One problem of private equity is that it is unregulated and opaque and one common rationale for registration in the Cayman Island is to avoid taxes, and this raises serious questions about WCM's claims on taxation and could see our calculations even be overestimates. Plus, clear details on who the investors are is not known as there is less than transparent ownership structure.
- EMR is known to develop resource projects that have clear exit options. Given WCM's clearly stated 'exit-based' business model, this raises uncertainty about the company's long-term commitment to Cumbria. We believe that the UK Government should instead be looking for long-term investors with sustainable and transparent business models with known funders to invest in the region.
- We note that EMR have no climate aspects to their investment strategy¹¹, nor an environmental or social policy in their ESG documents.¹² Nor is there mention of board level governance on climate nor remuneration structures incentivizing management on climate change.
- We note an EMR deal in 2018 to buy BHP Group's Cerro Colorado copper mine in Chile US\$320 million collapsed after EMR did not meet financing conditions.¹³

We question the extent that these ESG risks have been adequately addressed in the planning process to date and we strongly believe the UK Government should take these into further consideration. Please note we have more detailed statistics and information on all the above points, which can be shared as requested.

We look forward to hearing from the Planning Casework Unit and sincerely hope that the Secretary of State "calls in" planning application 4/17/9007.

Yours sincerely,

Ciara Shannon

Duncan Pollard

www.eden-works.org

www.dpollardassociates.eco

¹¹ Source: <https://www.emrcapital.com/en-us/investments/investment-strategy>

¹² Source: <https://www.emrcapital.com/en-us/esg/esg-management>

¹³ Source: <https://www.bloomberquint.com/business/bhp-union-says-it-was-told-sale-of-chile-mine-has-been-canceled>